The Library of Congress'

EARLY STATE RECORDS PROJECT

converted from the original microfilm held by the
Vincent C. Immel Law Library, Saint Louis University

through the generous support of a grant from the

Council on Library and Information Resources

South Dakota. Constitutional convention, 1885.
[Constitutional debates, South Dakota 1885, 1889]

DAKOTA CONSTITUTIONAL CONVENTION

HELD AT SIOUX FALLS, SEPTEMBER, 1885

VOL. I

HON. A. J. EDGERTON, President
JOHN CAIN, Secretary
HENRY M. AVERY, Assistant Secretary

PUBLISHED UNDER THE EDITORIAL SUPERVISION OF DOANE ROBINSON
STATE LIBRARIAN

Huronite Printing Co
Huron, S. D.
1907

JK6525
1885
.A14

Stenographic Reporters of Debates

Theron G. Brown
E. A. Maglone
Ivan W. Goodner
Mrs. J. D. Washburne

LIBRARY OF CONGRESS
RECEIVED
AUG 3 1925
DOCUMENTS DIVISION

Authority to Publish.

Chapter 98, Laws of 1897.

AN ACT, Entitled an Act Providing for the Publication of the Debates of the Consiitution Conventions of 1885 and 1889.

Be it enacted by the Legislature of the State of South Dakota:

SECTION 1. Duty of Librarian.) The state librarian is hereby directed to edit and prepare for publication, with suitable introduction and notes, the debate of the constitutional convention of 1885 which formulated the constitution of the state of South Dakota and constitutional convention of 1889 which revised the same.

SECTION 2. Number of Copies.) One thousand sets of such debates shall be printed and substantially bound in half sheep binding, under the direction of the commissioner of public printing as are the reports of state officers and boards.

SECTION 3. Duty of Secretary of State.) The secretary of state shall supply six sets of such published debates each, to the state library, the supreme court library and the library of the law school at Vermillion, and one copy each to each state office and institution, one copy to each member of the present legislature and shall retain one hundered and fifty copies in his possession; all of the foregoing sets of such debates to remain and be the property of the state of South Dakota. The secretary of state shall supply one set of such debates to each state and territory and to the congressional library at Washington and the remainder he shall offer for sale to the public at such price as will defray the cost of publishing the same when all of such balance is sold. All moneys derived from the sale of such debates shall be paid into the general fund of the state treasury.

SECTION 4. Repeal.) All acts or parts of acts in conflict with this act are hereby repealed.

Approved, February 27, 1907

Introductory.

Dakota Territory was created by Act of Congress approved by President James Buchanan on March 2, 1861. It included the present states of South Dakota, North Dakota, Montana and Wyoming. Agitation for division began at once and resulted in the creation of Idaho Territory on March 3, 1863, which included the present states of Montana and Wyoming; but one year later, that is, May 26, 1864, Montana was created with its present boundaries and Wyoming was reattached to Dakota, and continued to be a portion of Dakota Territory until July 25, 1868. Even then there was sentiment favorable to still further sub-dividing Dakota which took official significance in 1872 in the form of a memorial from the territorial legislature to congress asking that Dakota be divided on the 46th parallel and the north half be made into an independent territory.

Nothing, however, immediately resulted from this petition, and it was not until 1879 that a genuine and forceful division propoganda was inaugurated which did not abate its efforts until division was accomplished, ten years later.

This finally successful movement had its inception at a little gathering at the home of Rev. Stewart Sheldon, in Yankton, on the evening of Thanksgiving Day, 1879, and was attended, among others, by Dr. Joseph Ward, Dr. W. H. H. Beadle, General Hugh J. Campbell, and Hon. Edward P. Wilcox. At this meeting it was resolved to attempt a general organization of the people for the promotion of the division of the territory upon the forty-sixth parallel and the admission of the south half to the union of states, and some printed matter in this interest was prepared and circulated. The motive back of this movement was the preservation of the school lands, a proposition having been advanced for the sale of all of the school lands to a syndicate at a low price. From this date the agitation was active, continuous, and pretty well organized. General Beadle during this period was territorial superintendent of public instruction, and he worked unceasingly upon the proposition that no portion of the school lands should be sold for less than ten dollars per acre.

By 1882 a general interest had been aroused, and upon June 21 a delegate convention, called through the Yankton propoganda, met at Canton to deliberate upon the proposition. The convention passed a ringing resolution upon the subject and appointed an executive committee to prepare and present to the next legislature a bill providing for a constitutional convention. The movement was known as "The Dakota Citizens' League." The executive committee appointed consisted of Joseph Ward and Wilmot Whitfield, Yankton; Newman C. Nash, Canton; S. Fry Andrews, Parker; W. C. Bower, Sioux Falls; F. B. Foster, Alexandria; J. B. Hines, Elk Point. Pursuant to the instructions of the Canton convention, this committee prepared a bill for a constitutional convention and promoted its passage through the legislature, but to the very great chagrin of the people of South Dakota the measure was vetoed by Governor Nehemiah G. Ordway. This action on the part of the governor set the prairies aflame, and meetings were held in all of the principal towns to express indignation and resolve upon action. The executive committee, pursuant to the popular sentiment, called a delegate convention to meet at Huron on June 19, 1883, and practically all of the counties were represented by their ablest men. Hon. Bernard G. Caulfield, for many years a member of congress from Illinois, but a pioneer citizen of Deadwood, presided, and the action of the convention was deliberate, dignified and statesmanlike. Not before had Dakota so impressed her capacity for self-government upon the public mind. A solemn ordinance was passed providing for a constitutional convention for the formation of a state constitution to meet at Sioux Falls upon September 4th of that year, to consist of 150 delegates duly apportioned to the several counties, to be chosen at a general election to be held upon August 1st.

At such election the following delegates were chosen:

Aurora—S. L. Baker, T. C. Connelly, Frank P. Baum.

Beadle—A. B. Mellville, C. J. Shefler, Charles Reed, George F. Lane

Bon Homme—Charles T. McCoy, John L. Turner, Robert Dollard, Frank M. Ziebach.

Brookings—G. S. Clevenger, B. J. Kelsey, A. S. Mitchell, T. R. Qualey.

Brown—M. J. Gordon, W. C. Houghton.

Brule—A. G. Kellam, S. W. Duncan, G. E. Schwindt.

Buffalo—E. A. Herman.

Charles Mix—A. B. Lucas.

Clark—S. H. Elrod, C. G. Sherwood.

Clay—J. P. Kidder, J. R. Whiteside, J. Kimball, E. B. Dawson.

Codington—A. C. Mellette, William Pierce, E. D. Wheelock, R. B. Spicer.

Davison—A. B. Hager, A. J. Waterhouse, John C. Tatman, John M. Pease.

Day—E. R. Ruggles, M. M. Moulton.

Deuel—P. A. Gatchell, H. B. Monaghan.

Douglas—J. F. Callahan.

Edmunds—H. A. Day.

Faulk—P. E. Knox.

Grant—J. C. Elliot, N. I. Lowthian, W. T. Burman, B. P. Murphy.

Hamlin—John Hayes, J. P. Cheever.

Hand—B. R. Howell, Charles E. Cort, Henry Miller, W. N. Brayton.

Hanson—Frank B. Foster, L. P. Chapman, H. W. Peek.

Hughes—W. A. Lichtenwallner.

Hutchinson—A. Sheridan Jones, Karl Winter, S. M. Daboll, Mathias Schlimgen.

Hyde—Eli Johnson.

Jerauld—C. W. McDonald.

Kingsbury—Philip Lawrence, John B. Smith, Knute Lewis, Charles B. McDonald.

Lake—M. W. Daley, R. A. Murray, R. Wentworth.

Lawrence—G. C. Moody, B. G. Caulfield, Porter Warner, Dolph Edwards.

Lincoln—O. S. Gifford, A. Boynton, A. B. Wheelock, J. W. Taylor, J. V. Conklin, M. E. Rudolph, A. Sherman.

McCook—J. E. Rutan, W. S. Brooks.

Miner—S. H. Bronson, M. W White, George R. Farmer.

Minnehaha—R. F. Pettigrew, Melvin Grigsby, John Bippus, B. F. Campbell, W. W. Brookings, W. C. Lovering, Albion Thorne, G. D. Banister.

Moody—H. M. Williamson, C. S. Wellman, A. P. Allen, J. E. Whalen.

Pennington—R. C. Lake, C. L. Wood.

Sanborn—Alonzo Converse.

Spink—E. W. Foster, Thomas Sterling, D. N. Hunt, Charles N. Kieth.

Sully and Potter—Edmund W. Eakin.

Turner—Joseph Allen, Christian Epple, Orange Still, A. Bertelson.

Union—C. F. Mallahan, Ole Gunderson, Jesse Akin.

Yankton—John R. Gamble, Hugh J. Campbell, George H. Hand, Joseph Ward, Bartlett Tripp, Calvin J. B. Harris, C. E. Brooks.

These delegates duly assembled at Sioux Falls on September 4th and effected a temporary organization by the choice of Arthur C. Mellette president, and Curtis H. Winsor secretary. After the usual preliminaries, Bartlett Tripp was chosen permanent president and Curtis H. Winsor and Henry M. Avery secretaries. The convention continued in session for fourteen days, finally adjourning upon September 19th, and the following constitution was the result of its labors:

The Constitution of 1883.

PREAMBLE.

We, the people of South Dakota, south of the forty-sixth parallel of north latitude, through our Representatives in convention assembled, invoking the guaranties of the Federal constitution, and relying upon the pledged faith of Congress in extending to the inhabitants of this portion of the Territory of the United States the rights, privileges and immunities secured to the people of the territory northwest of the river Ohio by the ordinance of 1787, including the right to form for ourselves a State Constitution and government and be admitted into the Union on an equal footing with the original States, such right being further secured by the conditions of the cession from France of the province of Louisiana, having complied with all the conditions necessary to admission, manifesting profound reverence for the Supreme Ruler of the universe, in order to form a more perfect and independent Government, establish justice, insure tranquility, provide for the common defense, promote the general welfare and preserve to ourselves and to our posterity the blessings of liberty, do ordain and establish this constitution for the State of South Dakota.

ARTICLE I.

BOUNDARIES.

The boundaries and jurisdiction of the State shall be as follows, to-wit: Beginning at a point where the forty-sixth parallel of north latitude intersects the western boundary line of the State of Minnesota; thence southerly along the western boundary line of said state of Minnesota to the northern boundary line of the State of Iowa; thence west along the boundary line of the said State of Iowa, to the northwest corner of the said State of Iowa, thence down the Big Sioux river and along the western boundary line of the said State of Iowa to the point of intersection with the northerly boundary line of the State of Nebraska, thence up the Missouri river and along the boundary line of the State of Nebraska to a point where the forty-third parallel of north latitude intersects the middle of the main channel of the Missouri river; thence west along the said forty-third parallel of north latitude to the point of its intersection with the twenty-seventh degree of longitude west from Washington; thence north along said twenty-seventh degree of longitude west from Washington to its intersection with the said forty-sixth parallel of north latitude, thence east along the said forty-sixth parallel of north latitude to the place of beginning.

ARTICLE II.

DECLARATION OF RIGHTS.

SECTION 1. All men are born equally free and independent, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing and protecting property, and of pursuing their own happiness. To secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed.

SEC. 2 The right of every person to worship Almighty God, according to the dictates of his own conscience, shall never be infringed; nor shall any person be compelled to attend, erect or support any place of worship; or to maintain any ministry against his consent; nor shall any control of or interference with the rights of conscience be permitted, or any preference be given by law to any religious establishments or modes of worship; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness or justify practices inconsistent with the peace or safety of the State.

SEC. 3. No religious test or amount of property shall ever be required as a qualification for any office of public trust under the State; and no person shall be rendered incompetent to give evidence in any court of law or equity in consequence of his opinions on the subject of religion, nor shall any money be drawn from the treasury for the benefit of religious societies, or theological seminaries.

SEC. 4. The right of the people peaceably to assemble to consult for the common good, to petition the Government or any department thereof, or to instruct their representatives, shall never be abridged.

SEC. 5. Every person may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right, and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions or indictments for libel the truth may be given in evidence, and if it shall appear to the jury that the matter charged as libelous be true and was published with good motives and for justifiable ends, the party shall be acquitted and the jury shall have the right to determine the fact, and the law, under direction of the court.

SEC. 6. The right of trial by jury shall remain inviolate, and shall extend to all cases at law without regard to the amount in controversy, but a jury trial may be waived by the parties in all civil cases, and in all criminal prosecutions for offenses less than felony, in the manner prescribed by law: Nothing herein contained shall be deemed to prohibit the Legislature providing for a jury of less than twelve in any inferior court.

SEC. 7. In all criminal prosecutions, the accused shall have the right to be heard by himself and counsel, to demand the nature and cause of the accusation against him, to have a copy thereof, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to a speedy and public trial by an impartial jury of the county or district in which the crime shall have been committed. All prosecutions shall be by indictment or information, and the accused shall not be compelled to give evidence against himself.

SEC. 8. All persons before conviction shall be bailable except for capital offenses where the proof is evident or the presumption great. The privilege of the writ of habeas corpus shall not be suspended, unless when in case of rebellion or invasion the public safety may require it.

SEC. 9. No person shall be held for a criminal offense unless on the presentment or indictment of a Grand Jury, or upon information of the public prosecutor, except in cases of impeachment, in cases cognizable by County courts by Justices of the Peace, and in cases arising in the army or navy or in the militia when in actual service in time of war or public danger. No person for the same offense shall be put twice in jeopardy. The Legislature may change, regulate or abolish the Grand Jury system.

SEC. 10. The Legislature may provide by law the number of persons which shall constitute a Grand Jury, and the number necessary to find an indictment or presentment.

SEC. 11. Treason against the State shall consist only in levying war against the same or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act or on confession in open court.

SEC. 12. The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated, and no warrant shall issue but upon probable causes supported by oath or affirmation and particularly describing the places to be searched and the persons or things to be seized.

SEC. 13. No "ex-post facto" law, nor law impairing the obligation of contracts, or retrospective in its operation, or making any irrevocable grant of special privileges, franchise or immunities, shall be passed by the Legislature.

SEC. 14. Private property shall not be taken for public use without just compensation therefor.

SEC. 15. No distinction shall ever be made by law between resident aliens and citizens in reference to the possession, enjoyment or descent of property.

SEC. 16. No person shall be imprisoned for debt arising out of or founded on a contract, expressed or implied.

SEC. 17. The militia shall be in strict subordination to the civil power; no soldier in time of peace shall be quartered in any house without consent of the owner, nor in time of war except in the manner prescribed by law.

SEC. 18. No tax or duty shall be imposed without the consent of the people or their representatives in the Legislature, and all taxation shall be equal and uniform.

SEC. 19. No law shall be passed granting to any citizen or class of citizens privileges or immunities which upon the same terms shall not equally belong to all citizens.

SEC. 20. Elections shall be free and equal, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.

SEC. 21. All courts shall be open, and every man for an injury done him in his goods, person or reputation, shall have remedy by due course of law, and right and justice administered without denial or delay.

SEC. 22. No power of suspending laws shall be exercised, unless by the Legislature or its authority.

SEC. 23. No person shall be attainted of treason or felony by the Legislature.

SEC. 24. Excessive bail shall not be required, nor excessive fines imposed, nor cruel punishment inflicted.

SEC. 25. The right of the citizens to bear arms in defense of themselves and the State shall not be questioned.

SEC. 26. The blessings of a free government can only be maintained by a firm adherence to justice, moderation, temperance, frugality and virtue, and by frequent recurrence to fundamental principles.

SEC. 27. The State of Dakota is an inseparable part of the American Union, and the constitution of the United States is the supreme law of the land.

SEC. 28. To guard against transgressions of the high powers we have delegated, we declare that everything in this article is excepted out of the general powers of government, and shall forever remain inviolate.

ARTICLE III.

ELECTIONS AND RIGHTS OF SUFFRAGE.

SECTION 1. Every male person resident of this State, who shall be of the age of twenty-one years and upwards, not otherwise disqualified, belonging to either of the following classes, who shall be qualified electors under the laws of the Territory of Dakota at the date of the ratification of this constitution by the people, or who shall have resided in the United States one year, in this State six months, in the county thirty days, and in the election precinct where he offers his vote ten days next preceding any election, shall be deemed a qualified elector at such election:

First—Citizens of the United States.

Second—Persons of foreign birth who shall have declared their intention to become citizens, conformably to the laws of the United States upon the subject of naturalization.

SEC. 2. All votes shall be by ballot.

SEC. 3. Electors shall, in all cases except treason, felony or breach of the peace, be privileged from arrest during their attendance at elections and in going to and returning from the same. And no elector shall be obliged to do military duty on the days of election, except in time of war or public danger.

SEC. 4. No elector shall be deemed to have lost his residence in this State by reason of his absence on business of the United States or of this State, or in the military or naval service of the United States.

SEC. 5. No soldier, seaman or marine in the army or navy of the United States shall be deemed a resident of this State in consequence of being stationed therein.

SEC. 6. No person under guardianship, non compos mentis or insane shall be qualified to vote at any election, nor shall any person convicted of treason or felony be qualified to vote at any election unless restored to civil rights.

SEC. 7. Any woman having the qualifications enumerated in section one of this article, as to age, residence and citizenship, and including those now qualified by the laws of the Territory, may vote at any election held solely for school purposes, and may hold any office relating to schools in this State.

ARTICLE IV.

EXECUTIVE DEPARTMENT.

SECTION 1. The executive power shall be vested in a Governor, who shall hold his office two years. A Lieutenant Governor shall be elected at the same time and for the same term.

SEC. 2. No person shall be eligible to the office of Governor or Lieutenant Governor, except a citizen of the United States, and a qualified elector of the State, who shall have attained the age of thirty years, and who shall have resided two years next preceding his election within the State; nor shall either be eligible to any other office during the term for which he shall have been elected; nor shall either be eligible as his own immediate successor.

SEC. 3. The Governor and Lieutenant Governor shall be elected by the qualified electors of the State at the times and places of choosing members of the Legislature. The persons respectively having the highest number of votes for Governor and Lieutenant Governor shall be elected. But if two or more shall have an equal and the highest number of votes for Governor or Lieutenant Governor, the two houses of the Legislature, at its next regular session, shall forthwith, by joint ballot, choose one of such persons for said office. The returns of election for Governor and Lieutenant Governor shall be made in such manner as shall be prescribed by law.

SEC. 4. The Governor shall be Commander-in-Chief of the military and naval forces of the State (except when they shall be called into the service of the United States), and may call out the same to execute the laws, suppress insurrection, and repel invasion. He shall have power to convene the Legislature on extraordinary occasions. He shall, at the commencement of each session, communicate to the Legislature by message, information of the condition of the State, and shall recommend such measures as he may deem expedient. He shall transact all necessary business with the officers of the Government, civil and military. He shall expedite all such measures as may be resolved upon by the Legislature, and shall take care that the laws be faithfully executed.

SEC. 5. The Governor shall have power to remit fines and forfeitures, to grant reprieves, commutations and pardons, after conviction, for all offenses except treason and cases of impeachment; provided, that in all cases where the sentence of the Court is capital punishment, imprisonment for life, or for a longer term than two years, or a fine exceeding two hundred dollars, no pardon shall be granted, sentence commuted or fine remitted, except upon the recommendation in writing of a Board of Pardons consisting of the Chief Justice, Secretary of State and Attorney General, after full hearing in open session; and such recommendations, with the reasons therefor, shall be filed in the office of the Secretary of State. But the Legslature may by law, in all cases, regulate the manner in which remissions of fines, pardons, commutations and reprieves may be applied for. Upon conviction for treason he shall have power to suspend the execution of the sentence until the case shall be reported to the Legislature at its next regular session, when the Legislature shall either pardon or commute the sentence, direct the execution of the sentence or grant a further reprieve. He shall communicate to the Legislature at each regular session, each case of remission of fine, reprieve, commutation or pardon, granted by him in the cases in which he is authorized to act without the recommendation of the said Board of Pardons, stating the name of the convict, the crime of which he was convicted, the sentence and its date, and the date of the remission, commutation, pardon or reprieve, with his reasons for granting the same.

SEC. 6. In case of the death, impeachment, resignation, failure to qualify, absence from the State, removal from office, or other disability of Governor, the powers and duties of the office for the residue of the term, or until he shall be acquitted or the disability removed, shall devolve upon the Lieutenant Governor.

SEC. 7. The Lieutenant Governor shall be President of the Senate, but shall have only the casting vote therein. If during a vacancy in the office of Governor, the Lieutenant Governor shall be impeached, displaced, resign, die, or from mental or physical disease become incapable of performing the duties of his office, or be absent from the State, the Secretary of State shall act as Governor until the vacancy shall be filled or the disability removed.

SEC. 8. When any office shall, from any cause, become vacant, and no mode is provided by the constitution and laws for filling such vacancy, the Governor shall have power to fill such vacancy by granting a commission, which shall expire at the end of the next session of the Legislature, or at the next election by the people.

SEC. 9. Every bill which shall have passed the Legislature shall, before it becomes a law, be presented to the Governor. If he approve, he shall sign it; but if not, he shall return it, with his objections, to that house in which it originated, who shall enter the objections at large upon the journal and proceed to reconsider it. If, after such reconsideration, two-thirds of the members present shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if it be approved by two-thirds of the members present, it shall become a law. But in all such cases, the vote of both houses shall be determined by ayes and noes, and the names of the members voting for and against the bill shall be entered upon the journal of each house respectively. If any bill shall not be returned by the Governor within three days (Sunday excepted) after it shall have been presented to him, the same shall be a law, unless the Legislature shall, by its adjournment, prevent its return; in which case it shall be filed, with his objections, in the office of the Secretary of State, within ten days after such adjournment, or become a law.

SEC. 10. The Governor shall have power to disapprove of any item or items of any bill making appropriations of money embracing distinct items, and part or parts of the bill approved shall be law, and the item or items disapproved shall be void, unless enacted in the manner following: If the Legislature being in session, he shall transmit to the house in which the bill originated, a copy of the item or items thereof disapproved, together with his objections thereto, and the items objected to shall be separately reconsidered, and each item shall then take the same course as is prescribed for the passage of bills over the executive veto.

SEC. 11. There shall be chosen by the qualified electors of the State, at the times and places of choosing members of the Legislature, a Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction and Attorney General, who shall severally hold their offices for the term of two years, and shall respectively keep their offices at the seat of government.

SEC. 12. The powers and duties of the Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction and Attorney General shall be prescribed by law.

ARTICLE V.

LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative power shall be vested in a Senate and House of Representatives.

SEC. 2. The number of the House of Representatives shall never be less than fifty-five nor more than 100. The number of members of the Senate shall never be less than twenty-five nor more than thirty-three. The sessions of the Legislature shall be biennial, except as otherwise provided in this constitution.

SEC. 3. No person shall be eligible to the office of Senator or member of the House of Representatives who shall not have attained the age of 25 years and resided one year within the State, and be a qualified elector in the district which he may be chosen to represent.

SEC. 4. The Legislature shall provide by law for an enumeration of the inhabitants of the State in the year eighteen hundred and eighty-five, and every ten years thereafter; and at its first regular session after each enumeration, made by authority of the United States, but at no other time, the Legislature shall apportion the Senators and Representatives according to the number of inhabitants, excluding Indians not taxed, and soldiers and officers of the United States army and navy.

SEC. 5. The terms of office of members of the Legislature shall be two years, and they shall each receive for their services until otherwise provided by law, the sum of three dollars for each day's attendance during the session, and ten cents for every mile they shall travel in going to and returning from the place of the meeting of the Legislature on the most usual route, but they shall not receive pay for more than forty days at any one session, except in proceedings for impeachments; and they shall receive no other pay or perquisites except their per diem and mileage.

SEC. 6. The Legislature shall meet at the seat of government on the first Tuesday after the first Monday of January, in the year next ensuing the election of members thereof, and at no other time except as provided by this constitution.

SEC. 7. Members of the Legislature and all officers thereof, shall, before they enter upon the duties of their respective offices take and subscribe an oath or affirmation to support the constitution of the United States, and the constitution of the State of Dakota, and respectfully to discharge the duties of their respective offices to the best of their ability.

SEC. 8. Each house shall be the judge of the elections, returns and qualifications of its own members, and a majority of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each house may provide.

SEC. 9. Each house shall have power to determine the rules of its proceedings and punish its members or other persons for contempt or for disorderly behavior in its presence, to enforce obedience to its process, to protect its members against violence or offers of bribes or private solicitation; and, with the concurrence of two-thirds, to expel a member, but not the second time for the same cause, and shall have all other powers necessary for the Legislature of a free State. A member expelled for corruption shall not thereafter be eligible to either house, and punishment for contempt or disorderly behavior shall not bar an indictment for the same offense.

SEC. 10. Each house shall choose its own officers, and the Senate shall choose a temporary President to preside when the Lieutenant Governor shall not attend as President or shall act as Governor. The Secretary of State shall call the House of Representatives to order at the opening of each new Legislature, and preside over it until a temporary presiding officer thereof shall have been chosen, and shall have taken his seat.

SEC. 11. In all elections to be made by the Legislature, the members thereof shall vote viva voce, and their votes shall be entered in the journal.

SEC. 12. Each house shall keep a journal of its proceedings and from time to time publish the same, except such parts as require secrecy, and the yeas and nays of members on any question shall at the desire of one-sixth of those present be entered on the journal.

SEC. 13. The sessions of each house and of committees of the whole shall be open, unless when the business is such as ought to be kept secret.

SEC. 14. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sititng.

SEC. 15. No member of the Legislature shall, during the term for which he was elected, be appointed or elected to any civil office in the State, which shall have been created, or the emoluments of which shall have been increased, during the term for which he was elected.

SEC. 16. No person holding office under the authority of the United States shall be eligible to, or have a seat in, the Legislature.

SEC. 17. Members of the Legislature in all cases except treason, felony and breach of the peace, shall be privileged from arrest during the session of the Legislature, and for fifteen days before the commencement and after the termination thereof.

SEC. 18. Every bill shall be read at length, on three different days in each house. The bill and all substitutes therefor shall be printed for the use of members before the final vote is taken thereon.

SEC. 19. The enacting clause of a law shall be: "Be it enacted by the Legislature of the State of Dakota," and no law shall be enacted except by bill. No bill shall be passed unless by assent of a majority of all the members elected to each house of the Legislature. And the question upon the final passage shall be taken upon its last reading, and the yeas and nays shall be entered upon the journal.

SEC. 20. The presiding officer of each house shall in the presence of the house over which he shall preside, sign all bills and joint resolutions passed by the Legislature, after their titles have been publicly read immediately before signing; and the fact of signing shall be entered on the journal.

SEC. 21. Any bill may originate in either house of the Legislature, and a bill passed by one house may be amended in the other.

SEC. 22. No bill, except general appropriation bills, shall be passed containing more than one subject, which shall be clearly expressed in its title; but if any subject shall be embraced in any act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be so expressed.

SEC. 23. The General Appropriation bill shall embrace nothing but appropriations for ordinary expenses of the Executive, Legislative and Judicial Departments of the State, interest on the public debt and for public schools. All other appropriations shall be made by separate bills, each embracing but one subject.

SEC. 24. No money shall be paid out of the treasury except upon appropriations made by law and on warrant drawn by the proper officer in pursuance thereof.

SEC. 25. The Legislature shall not authorize any games of chance, lottery, or gift enterprise, under any pretense, or for any purpose whatever.

SEC. 26. No member of the Legislature shall be liable in any civil or criminal action whatever for words spoken in debate.

SEC. 27. The Legislature shall never grant any extra compensation to any public officer, agent, servant or contractor after the services shall have been rendered or the contract entered into, nor authorize the payment of any claims or part thereof created against the State under any agreement or contract made without express authority of law, and all such unauthorized agreements or contracts shall be null and void. Nor shall the compensation of any public officer be increased or diminished during his term of office; provided, however, the Legislature may make appropriations for expenditures incurred in suppressing insurrections or repelling invasions.

SEC. 28. The Governor shall issue writs of election to fill such vacancies as may occur in either house of the Legislature.

SEC. 29. The Legislature shall direct by law in what manner and in what courts suits may be brought against the State.

SEC. 30. The Legislature shall not pass any local or special law authorizing the creation, extension, or impairing of liens; granting divorces; changing names of persons or places; laying out, opening, altering or working roads or highways; vacating town plats, streets, alleys, public grounds and roads, except State or Territorial roads; locating or changing county seats; granting corporate powers or privileges, except to cities; providing for the election of officers in townships, or incorporated towns or villages; relieving defaulting officers or their bondsmen; remitting fines, penalties or forfeitures; relating to ferries or bridges, or incorporating ferry or bridge companies, except for the erecting of bridges crossing streams which form boundaries between this State and any other State or Territory; providing for the bonding of towns, precincts, school districts or counties; providing for the management of public schools; exempting property from taxation; providing for the sale or mortgage of real estate belonging to minors or others under disability; granting to any private corporation, association or individual any special or exclusive privileges, immunity or franchise whatever.

SEC. 31. No act shall take effect until ninety days after the adjournment of the session at which it passed, unless in case of emergency (to be expressed in the preamble or body of the act) the Legislature shall by a vote of two-thirds of all the members elect to each house otherwise direct.

SEC. 32. Any member of either house of the Lgislature of this State who asks, receives, or agrees to receive, any bribe upon any understanding that his official vote, opinion, judgment or action shall be influenced thereby, or shall be given in any manner or upon any particular side of any question or matter upon which he may be required to act in his official capacity, or who gives or offers or promises to give any official vote in consideration that another member of the Legislature shall give any such vote, either upon the same or any other question, shall be deemed guilty of a felony, and shall be punishable as is or as may hereafter be provided by law.

SEC. 33. Any Governor of this State who asks, receives or agrees to receive any bribe upon any understanding that his official opinion, judgment or action shall be influenced thereby, or who gives or offers or promises his official influence in consideration that any member of the Legislature shall give his official vote or influence on any particular side of any question or matter upon which he may be required to act in his official capacity, or who menaces any member by the threatened use of his veto power, or who offers or promises any member that he, the said Governor, will appoint any particular person or persons to any office created, or thereafter to be created, in consideration that any member shall give his official vote or influence on any matter pending or thereafter to be introduced into either house of said Legislature, or who threatens any member that he, the said Governor, will remove any person or persons from any office or position, with intent to in any manner influence the official action of said member, shall be punished in the manner now or that may hereafter be provided by law, and upon conviction therefor shall forfeit all right to hold or exercise any office of trust or honor in this State.

CONGRESSIONAL AND LEGISLATIVE APPORTIONMENT.

SEC. 34. Until otherwise provided by law, the members of the House of Representatives of the United States, apportioned to this state, shall be elected from the State at large.

SEC. 35. Until otherwise provided by law, the Senatorial and Representative districts shall be formed, and the Senators and Representatives shall be apportioned, as follows:

SENATORIAL DISTRICTS.

District No. 1 shall consist of the county of Union, and be entitled to one Senator.

District No. 2 shall consist of the county of Clay, and be entitled to one Senator.

District No. 3 shall consist of the county of Yankton, and be entitled to two Senators.

District No. 4 shall consist of the county of Bon Homme, and be entitled to one Senator.

District No. 5 shall consist of the counties of Charles Mix, Brule and Buffalo, and be entitled to one Senator.

District No. 6 shall consist of the counties of Douglas and Hutchinson, and be entitled to one Senator.

District No. 7 shall consist of the county of Turner, and be entitled to one Senator.

District No. 8 shall consist of the county of Lincoln, and be entitled to one Senator.

District No. 9 shall consist of the county of Minnehaha, and be entitled to two Senators.

District No. 10 shall consist of the county of Moody, and be entitled to one Senator.

District No. 11 shall consist of the counties of Hanson and McCook, and be entitled to one Senator.

District No. 12 shall consist of the counties of Davison and Sanborn, and be entitled to one Senator.

District No. 13 shall consist of the counties of Aurora and Jerauld, and be entitled to one Senator.

District No. 14 shall consist of the counties of Lake and Miner, and shall be entitled to one Senator.

District No. 15 shall consist of the county of Brookings, and be entitled to one Senator.

District No. 16 shall consist of the counties of Kingsbury and Clark, and be entitled to one Senator.

District No. 17 shall consist of the county of Beadle, and be entitled to one Senator.

District No. 18 shall consist of the counties of Hand and Hyde, and be entitled to one Senator.

District No. 19 shall consist of the county of Hughes, and be entitled to one Senator.

District No. 20 shall consist of the counties of Sully, Potter, Walworth and Campbell, and all that portion of territory north of said counties and south of the forty-sixth parallel of north latitude, and be entitled to one Senator.

District No. 21 shall consist of the counties of Faulk, Edmunds and McPherson, and all that portion of territory north of said counties and south of the forty-sixth parallel of north latitude, and all that portion of territory lying east of said counties, extended northerly to the forty-sixth parallel, and not included in any other county, and be entitled to one Senator.

District No. 22 shall consist of the county of Spink, and be entitled to one Senator.

District No. 23 shall consist of the county of Codington, and be entitled to one Senator.

District No. 24 shall consist of the counties of Deuel and Hamlin, and be entitled to one Senator.

District No. 25 shall consist of the counties of Grant and Roberts, and be entitled to one Senator.

District No. 26 shall consist of the county of Brown, and all that portion of territory lying between said county and the forty-sixth parallel of north latitude, and be entitled to one Senator.

District No. 27 shall consist of the county of Day and all that portion of territory north of said county and south of the forty-sixth parallel of north latitude, and be entitled to one Senator

District No 28 shall consist of the counties of Pennington, Custer and Fall River, and be entitled to one Senator.

District No. 29 shall consist of the counties of Lawrence, Butte and Mandan, and be entitled to two Senators.

REPRESENTATIVE DISTRICTS.

District No. 1 shall consist of the county of Union, and be entitled to two Representatives.

District No. 2 shall consist of the county of Clay, and be entitled to two Representatives.

District No. 3 shall consist of the county of Yankton, and be entitled to two Representatives.

District No. 4 shall consist of the county of Bon Homme, and be entitled to three Representatives.

District No. 5 shall consist of the counties of Charles Mix, Brule and Buffalo, and be entitled to three Representatives.

District No. 6 shall consist of the counties of Douglas and Hutchinson, and be entitled to four Representatives.

District No. 7 shall consist of the county of Turner, and be entitled to two Representatives.

District No. 8 shall consist of the county of Lincoln, and be entitled to three Representatives.

District No. 9 shall consist of the county of Minnehaha, and be entitled to four Representatives.

District No. 10 shall consist of the county of Moody, and be entitled to two Representatives.

District No. 11 shall consist of the counties of Hanson and McCook, and be entitled to three Representatives.

District No. 12 shall consist of the counties of Davison and Sanborn, and be entitled to four Representatives.

District No. 13 shall consist of the counties of Aurora and Jerauld, and be entitled to two Representatives.

District No. 14 shall consist of the counties of Lake and Miner, and be entitled to three Representatives.

District No. 15 shall consist of the county of Brookings, and be entitled to two Representatives.

District No. 16 shall consist of the counties of Kingsbury and Clark, and be entitled to three Representatives.

District No. 17 shall consist of the county of Beadle, and be entitled to three Representatives.

District No. 18 shall consist of the county of Hand, and be entitled to two Representatives.

District No. 19 shall consist of the county of Hyde, and be entitled to one Representative.

District No. 20 shall consist of the counties of Sully, Potter, Walworth and Campbell, and all of that portion of territory lying north of said counties and south of the forty-sixth parallel of north latitude, and be entitled to three Representatives.

District No. 21 shall consist of the county of Hughes, and be entitled to two Representatives.

District No. 22 shall consist of the county of Faulk, and be entitled to two Representatives.

District No. 23 shall consist of the county of Spink, and be entitled to three Representatives.

District No. 24 shall consist of the county of Codington, and be entitled to two Representatives.

District No. 25 shall consist of the county of Deuel, and be entitled to one Representative.

District No. 26 shall consist of the county of Hamlin, and be entitled to one Representative.

District No. 27 shall consist of the county of Grant, and be entitled to two Representatives.

District No. 28 shall consist of the county of Roberts, and be entitled to one Representative.

District No. 29 shall consist of the county of Brown, and all that portion of territory north of said county and south of the forty-sixth parallel of north latitude, and be entitled to three Representatives.

District No. 30 shall consist of the county of Day, and all that portion of territory north of said county and south of the forty-sixth parallel of north latitude, and be entitled to one Representative.

District No. 31 shall consist of the county of Pennington, and be entitled to two Representatives.

District No. 32 shall consist of the counties of Custer and Fall River, and be entitled to one Representative.

District No. 33 shall consist of the counties of Lawrence, Butte and Mandan, and be entitled to five Representatives.

District No. 34 shall consist of the county of Edmunds and all that portion of territory lying east of said county and west of Brown county, and be entitled to one Representative.

District No. 35 shall consist of the county of McPherson, and all that portion of territory lying north of said county and south of the forty-sixth parallel of north latitude, and also all that portion of territory which lies east of said county and west of the county of Brown extended northerly to the forty-sixth parallel of north latitude, and be entitled to one Representative.

ARTICLE VI.

JUDICIAL DEPARTMENT.

SECTION 1. The judicial powers of the State, except as in this constitution otherwise provided, shall be vested in a Supreme Court, Circuit Courts, County Courts and Justices of the Peace, and such other courts as may be created by law for cities and incorporated towns.

SUPREME COURT.

SEC. 2. The Supreme court, except as otherwise provided in this constitution, shall have appellate jurisdiction only, which shall be co-extensive with the State, and shall have a general superintending control over all inferior courts under such regulations and limitations as may be prescribed by law.

SEC. 3. It shall have power to issue writs of habeas corpus. It shall also have power to issue writs of mandamus, quo warranto, certiorari, injunction and other original and remedial writs, with authority to hear and determine the same in such cases and under such regulations as may be provided by law; provided, however, that no jury trials shall be allowed in said Supreme court, but in proper cases questions of fact may be sent by said court to a Circuit court for trial before a jury.

SEC. 4. At least two terms of the Supreme court shall be held each year at the seat of government.

SEC. 5. The Supreme court shall consist of three Judges, to be chosen from districts by the qualified electors of the State at large, as hereinafter provided.

SEC. 6. The number of said Judges and districts may, after five years from the taking effect of this constitution, be increased by law to not exceeding five.

SEC. 7. A majority of the Judges of the Supreme court shall be necessary to form a quorum or pronounce a decision, but one or more of said Judges may adjourn the court from day to day, or to a day certain.

SEC. 8. The Judges of the Supreme court shall immediately after the first election under this constitution, and their taking office, be classified by lot so that one shall hold his office for the term of two years, one for the term of three years, and one for the term of four years, from and after the first Monday of January succeeding their election. The lot shall be drawn by the Judges, who shall for that purpose assemble at the seat of government, and they shall cause the result thereof to be certified to the Secretary of State and filed in his office.

SEC. 9. The Judge having the shortest term to serve, not holding his office by appointment or election to fill a vacancy, shall be the Chief Justice, and shall preside at all terms of the Supreme court; and, in case of his absence, the Judge having, in like manner, the next shortest to serve, shall preside in his stead.

SEC. 10. The terms of office of all Judges of the Supreme court, elected after the said first election, shall be four years, except as herein provided. In case of the re-election of a Judge then holding such office, the second term of such Judge shall be eight years. And if any such Judge shall have served two full terms, and shall be re-elected for the third term while still in such office, his third term shall be twelve years.

SEC. 11. Provision may be made by law for the voluntary retirement of any of said Judges at any time after they shall have arrived at the age of seventy years; provided, that the Judge so retired shall have been in the actual discharge of his duties as such Judge for at least sixteen years immediately preceding such retirement.

SEC. 12. No person shall be eligible to the office of Judge of the Supreme court unless he be learned in the law, be at least thirty years of age, and a citizen of the United States, nor unless he shall have resided in this State or the Territory at least two years next preceding his election, and at the time of his election be a resident of the district for which he is elected; but for the purpose of a re-election no such Judge shall be deemed to have lost his residence in the district by reason of his removal to the seat of government in the discharge of his official duties.

SEC. 13. Until otherwise provided by law, the districts from which the said Judges of the Supreme court shall be elected, shall be constituted as follows:

First District—All that portion of the State lying west of the Missouri river.

Second District—All that portion of the State lying east of the Missouri river and west of the Dakota river.

Third District—All that portion of the State lying east of the Dakota river.

SEC. 14. There shall be a Clerk of the Supreme court, who shall be appointed by the Judges thereof, and shall hold his office during the pleasure of said Judges, and whose duties and emoluments shall be as prescribed by law and by the rules of the Supreme court not inconsistent with law.

CIRCUIT COURTS.

SEC. 15. The Circuit courts shall have original jurisdiction of all actions and causes, both at law and in equity, and such appellate jurisdiction as may be conferred by law and consistent with this constitution; such jurisdiction as to value and amount and grade of offense may be limited by law. They and the Judges thereof shall have jurisdiction, also, and power to issue writs of habeas corpus, mandamus, quo warranto, certiorari, injunction and other original and remedial writs, with authority to hear and determine the same.

SEC. 16. The State shall be divided into judicial courts, in each of which there shall be elected by the electors thereof, one Judge of the Circuit court therein, whose term of office shall be four years; provided, however, that the Judges elected at the first election shall hold their office for four years from and after the first Monday of January next preceding the taking effect of this constitution; and, provided further, that the term of office for all Judges after those first elected may by law be inzeased to six years.

SEC. 17. Until otherwise provided by law, said circuits shall be five in number, and constituted as follows, viz:

First Circuit—The counties of Union, Clay, Lincoln, Turner, Lake, Minnehaha, McCook and Miner.

Second Circuit—The counties of Yankton, Bon Homme, Charles Mix, Douglas, Hutchinson, Davison, Hanson, Sanborn, Aurora, Brule, Buffalo and Jerauld.

Third Circuit—The counties of Brookings, Moody, Kingsbury, Clark, Hamlin, Deuel, Grant, Codington, Day and Roberts, the Wahpeton and Sisseton reservations, and all that strip of territory not included between the north line of the county of Day and the forty-sixth parallel of north latitude.

Fourth Circuit—The counties of Beadle, Hand, Hyde, Hughes, Spink, Brown, Sully, Potter, Edmunds, Faulk, Walworth, Campbell, McPherson, and including all that portion of said State lying east of the Missouri river not included in any other Judicial circuit.

Fifth Circuit—All that portion of said State lying west of the Missouri river.

SEC. 18. The Legislature may, whenever two-thirds of the members of each house shall concur therein, increase the number of Judicial circuits and the Judges thereof, and divide the said State into Judicial circuits, accordingly, taking care that they be formed of compact territory and be bounded by county lines, but such increase of number or change in the boundaries of districts shall not work the removal of any Judge from his office during the term for which he shall have been elected or appointed.

SEC. 19. Writs of error and appeals may be allowed from decisions of said Circuit courts to the Supreme court under such regulations as may be prescribed by law.

COUNTY COURTS.

SEC. 20. There shall be elected in each organized county a County Judge, who shall be Judge of the County court of said county, whose term of office shall be two years, until otherwise provided by law, and whose compensation shall be as may be provided by law; provided, however, that the Judge first elected under the provisions of this constitution shall hold his office for the term of two years from and after the first Monday in January next preceding the taking effect of this constitution.

SEC. 21. County courts shall be Courts of Record, and shall have original jurisdiction in all matters of probate, settlement of estates of deceased persons, appointment of guardians, conservators and administrators, and settlement of their accounts, and such other civil and criminal jurisdiction as may be conferred by law; provided, that such courts shall not have jurisdiction in any case where the debt, damage, claim or value of property involved shall exceed one thousand dollars, except in cases relating to the estates of deceased persons and the appointment of guardians. Writs of error and appeals may be allowed from County to Circuit courts, or to the Supreme court in such cases and in such manner as may be prescribed by law. No appeal shall lie to the Circuit court from any judgment given upon an appeal from a Justice of the Peace.

SEC. 22. The County courts shall not have jurisdiction in case of felony, nor shall criminal cases therein be prosecuted by indictment; but they may have such jurisdiction in criminal matters, not of the grade of felony, as the Legislature may prescribe, and the prosecutions therein may be by information or otherwise as the Legislature may provide.

JUSTICES OF THE PEACE.

SEC. 23. Justices of the Peace shall have such jurisdiction as may be conferred by law, but they shall not have jurisdiction of any cause wherein the value of the property or the amount in controversy exceeds the sum of $100, or where the boundaries or title to real property shall be called in question.

POLICE MAGISTRATES.

SEC. 24. The Legislature shall have power to provide for creating such Police Magistrates for cities and towns as may be deemed from time to time necessary, who shall have jurisdiction of all cases arising under the ordinance of such cities and towns respectively, and such Police Magistrates may also be constituted ex officio Justices of the Peace for their respective counties.

STATES ATTORNEYS.

SEC. 25. The Legislature shall have power to provide for an Attorney General for the State and States Attorneys, and to prescribe their duties and fix their compensation; but no person shall be eligible to the office of Attorney General or States Attorney who shall not at the time of his election be at least 25 years of age and possess all the other qualifications for Judges of Circuit courts as prescribed in this article.

MISCELLANEOUS.

SEC. 26. No person shall be eligible to the office of Judge of the Circuit or County courts unless he be learned in the law, be at least 25 years of age, and a citizen of the United States, nor unless he shall have resided in this State or Territory at least one year next preceding his election, and at the time of his election be a resident of the county or circuit, as the case may be, for which he is elected.

SEC. 27. The Judges of the Supreme court, Circuit courts and County courts, shall be chosen at the first election held under the provisions of this constitution, and thereafter as provided by law, and the Legislature may provide for the election of such officers on a different day from that on which an election is held for any other purpose, and may for the purpose of making such provision extend or abridge the term of office of any such Judges then holding, but not in any case more than six months. The terms of office of all Judges of the Circuit courts elected in the several Judicial circuits throughout the State shall expire on the same day.

SEC. 28. The time of holding courts within said judicial circuits and counties shall be as provided by law; but at least one term of the Circuit court shall be held annually in each organized county, and the Legislature shall make provision for attaching unorganized counties or territory to organized counties for judicial purposes.

SEC. 29. Special terms of said courts may be held under such regulations as may be provided by law.

SEC. 30. The Judges of the Supreme court and Circuit courts and County courts shall each receive such salary as may be provided by law consistent with this constitution, and no such Judge shall receive any compensation, perquisite or emoluments for or on account of his office in any form whatever, except such salary; provided, that County Judges may accept and receive such fees as may be allowed under the Land laws of the United States.

SEC. 31. No Judges of the Supreme court or Circuit courts shall act as attorney or counsellor at law, nor shall any County Judge act as attorney or counselor at law in any case which is or may be brought into his court, or which shall be appealed therefrom.

SEC. 32. There shall be a Clerk of the Circuit court in each organized county, who shall also be Clerk of the County court, and who shall be elected by the qualified electors of such counties, and shall hold his office for a term of two years, except the Clerk elected at the first election, who shall hold his office for two years from and after the first Monday of January next preceding the taking effect of this constitution. The duties and compensation of said Clerk shall be as provided by law and regulated by the rules of the court consistent with the provisions of law.

SEC. 33. Until the Legislature shall provide by law for fixing the terms of courts, the Judges of the Supreme, Circuit and County courts, respectively, shall fix the terms thereof.

SEC. 34. All laws relating to courts shall be general and of uniform operation throughout the State, and the organization, jurisdiction, power, proceedings and practice of all the courts of the same class or grade so far as regulated by law, and the force and effect of the proceedings, judgments and decrees of such courts, severally, shall be uniform.

SEC. 35. No Judge of the Supreme or Circuit courts shall be elected to any other than a judicial office, or be eligible thereto, during the term for which he was elected such Judge. All votes for either of them during such term for any elective office, except that of Judge of the Supreme court, Circuit court or County court, given by the Legislature or the people, shall be void.

SEC. 36. All officers of the Supreme, Circuit or County courts provided for in this article shall hold their offices until their successors respectively are elected or appointed and qualified.

SEC. 37. All officers provided for in this article shall respectively reside in the district, county, precinct, city or town for which they may be elected or appointed. Vacancies in elective offices shall be filled by election, but when the unexpired term does not exceed one year, the vacancy shall be filled by appointment, as follows: All Judges of the Supreme, Circuit and County courts by the Governor; all other judicial officers by the County Board of the county where the vacancy occurs; or, in case of Police Magistrates, by the municipality.

SEC. 38. All process shall run in the name of the "State of Dakota." All prosecution shall be carried on in the name and by the authority of the "State of Dakota."

ARTICLE VII.

EDUCATION AND SCHOOL LANDS.

SECTION 1. The stability of a republican form of government depending mainly upon the intelligence of the people, it shall be the duty of the Legislature to establish an general and uniform system of public schools.

SEC. 2. All the proceeds of the sale of public lands that have already been given, or may hereafter be given by the United States for the use of public schools, all such per cent. as may be granted by Congress on the sale of public lands, the proceeds of all property that shall fall to the State by escheat, and the proceeds of gifts or donations to the State not otherwise specified, shall be and remain a perpetual fund for the maintenance of public schools in the State. This fund may be increased, but never shall be diminished. If any loss shall accrue to this fund it shall be made good by the State.

SEC. 3. The income of this fund, together with the net proceeds of all fines for violations of State laws, shall be used annually for the benefit of public schools, but the principal shall forever remain unused and must be safely invested as hereinafter provided. No part of this fund, either principal or interest, shall ever be diverted, even temporarily, or ever used for any other purpose than the maintenance of public schools.

SEC. 4. After one year from the assembling of the first State Legislature, the public school lands may be offered for sale or rental on the following conditions: The Superintendent of Public Instruction, the State Treasurer and the State Auditor shall constitute a Board of Appraisal to fix the minimum price at which lands shall be sold or rented. But in no case shall land be sold at less than $10 per acre. The total amount of school lands offered for sale within ten years from the date of the first sale, shall not exceed one-third of all the lands set apart for the use of public schools. No lands shall be sold or rented except after sixty days' previous public notice of sale or rental by publication in a newspaper of general circulation in the vicinity of the lands to be sold, and at the seat of government; and such lands shall be sold or rented to the highest bidder. The Board of Appraisal shall at least every four years make a new appraisal of the lands, and shall always offer for sale or rental the most valuable lands first. The proceeds of all sales of school lands shall be invested by the Board of Appraisal, with the advice and consent of a committee of the Legislature, in such manner as to yield the greatest revenue consistent with safety of investment.

SEC. 5. The Legislature shall make such provision by taxation or otherwise, as, with the revenue from the permanent school fund, shall secure a thorough and efficient system of common schools throughout the State.

SEC. 6. All lands or moneys that have been given or may be given by the United States, or by other parties, for the benefit and use of a university or of normal schools in the Territory of Dakota, shall belong to, and be used by, the university and the normal schools of the State in so far as they are equitably entitled to the same.

SEC. 7. No school district or township shall be entitled to any share in the public school money of the State for the year in which a school shall not be maintained at least five months.

SEC. 8. No teacher, State, county, township or district school officer, shall be interested in the sale, proceeds or profit of any book, apparatus or furniture used, or to be used, in any school in this State, under such penalties as shall be provided by the Legislature.

SEC. 9. No appropriation of money or of land, or of bonds to aid any sectarian school, shall ever be made by the Legislature, or any county, or any municipality, within the State.

ARTICLE VIII.

MILITIA.

SECTION 1. The militia of the State of Dakota shall consist of able-bodied male persons residing in the State, between the ages of eighteen and forty-five years, except such persons as now are, or hereafter may be, exempt by the laws of the United States or of this State.

SEC. 2 The Legislature may provide by law for the enrollment of the militia, the establishment of volunteer and such other organization, and for their equipment and discipline, as may be deemed necessary for the protection of the State and the preservation of order.

SEC. 3. The Legislature, in providing for the organization of the militia, shall conform as nearly as practicable to the regulations for the government of the armies of the United States

SEC. 4. All militia officers shall be commissioned by the Governor, and may hold their commissions for such time as the Legislature may provide.

SEC. 5. The militia shall in all cases, except treason, felony or breach of the peace, be privileged from arrest during their attendance at musters and elections and in going to and returning from the same.

SEC. 6. All military records, banners and relics of the State shall be preserved as an enduring memorial of the patriotism and valor of Dakota, and it shall be the duty of the Legislature to provide by law for the safe keeping of the same.

SEC. 7. No person having conscientious scruples against bearing arms shall be compelled to do military duty in time of peace, but may be required to pay an equivalent for such exemption.

ARTICLE IX.

REVENUE AND TAXATION.

SECTION 1. The Legislature shall provide such revenue as may be needful by levying a tax by valuation, so that every person and corporation shall pay a tax in proportion to the value of his, her or its property, such value to be ascertained and fixed in such manner as the Legislature shall direct, by general laws; such laws to be uniform as to the classes of property or subjects upon which they operate.

SEC. 2. The property of the State, county and municipal corporations, both real and personal, shall be exempt from taxation.

SEC. 3. The Legislature may, by general law, exempt from taxation property used exclusively for agricultural and horticultural societies, for schools, religious, cemetery and charitable purposes and personal property to an amount not exceeding in value $200 for each individual liable to taxation.

SEC. 4. To encourage the planting and cultivation of timber, the Legislature may, by general law, exempt from taxation for a term of years, not to exceed one-fourth of any quarter section of land, and the improvements thereon to the extent of $1,000 in value.

SEC. 5. All laws exempting property from taxation, other than that enumerated in sections two, three and four of this article, shall be void.

SEC. 6. No tax shall be levied except in pursuance of a law, which shall distinctly state the object of the same, to which the tax only shall be applied.

SEC. 7. All taxes levied and collected for State purposes shall be paid into the State Treasury.

SEC. 8. The Legislature may vest the corporate authority of cities, towns and villages with power to make local improvements by special assessment, or by special taxation of contiguous property or otherwise. For all other corporate purposes, all municipal corporations may be vested with authority to assess and collect taxes; but such tax shall be uniform in respect to persons and property within the jurisdiction of the body levying the same.

SEC. 9. The making of profit, directly or indirectly, out of State, county, city, town or school district money, or using the same for any purpose not authorized by law, shall be deemed a felony, and shall be punished as provided by law.

SEC. 10. An accurate statement of the receipts and expenditures of the public moneys shall be published annually in such manner as the Legislature may provide.

ARTICLE X.

PUBLIC ACCOUNTS AND EXPENDITURES.

SECTION 1. An account shall be kept by the officers of the Executive and Administrative Departments, and of all the public institutions of the State, of all moneys received or disbursed by them, severally, from all sources and for every service performed, and a semi-annual report thereof made to the Governor, under oath; and any officer who makes a false report shall be guilty of perjury and punished accordingly.

SEC. 2. The Auditor shall within sixty days after the adjournment of each session of the Legislature, prepare and publish a full statement of all moneys expended at such session, specifying the amount of each item, and to whom and for what paid.

ARTICLE XI.

COMPENSATION OF PUBLIC OFFICERS.

SECTION 1. The salaries of the officers named in this section shall be as follows, until otherwise provided by law: The Governor shall receive an annual salary of two thousand dollars; the State Treasurer shall receive an annual salary of one thousand dollars; the State Auditor shall receive an annual salary of one thousand dollars; the Superintendent of Public Instruction shall receive an annual salary of one thousand five hundred dollars; the Secretary of State shall receive an annual salary of one thousand five hundred dollars; the Attorney General shall receive an annual salary of one thousand dollars; the compensation of Lieutenant Governor shall be double the compensation of a State Senator; the Judges of the Supreme, Circuit and County courts shall receive such salaries as may be provided by law.

ARTICLE XII.

PUBLIC INDEBTEDNESS

SECTION 1. The State shall not loan its credit or make donations in aid of any individual, association or corporation, nor subscribe to or become the owner of the capital stock of any association or corporation, nor engage in any work of internal improvement.

SEC. 2. For the purpose of defraying extraordinary expenses and making public improvements, or to meet casual deficits or failure in revenue, the State may contract debts never to exceed with previous debts in the aggregate five hundred thousand dollars, and no greater indebtedness shall be incurred except for the purpose of repelling invasion, suppressing insurrection or defending the State or United States in war, and provision shall be made by law for the payment of the interest annually and the principal when due by a tax levied for the purpose, or from other sources of revenue, which law providing for the payment of such interest and principal by such law, or otherwise, shall be irrepealable until such debt is paid.

SEC. 3 No city, county, town, municipality or other subdivision of the State shall ever make donations to or loan its credit in aid of or subscribe to the capital stock of any association or corporation, or become responsible for the debts of any individual, association or corporation.

SEC. 4. The debt of any county, city, town, school district or other subdivision shall never exceed five per centum of the assessed value of the taxable property therein. In estimating the amount of indebtedness which a municipality or subdivision may incur, the amount of indebtedness contracted prior to the adoption of this constitution shall not be included.

SEC. 5. Any city, county, town, school district or other subdivision incurring indebtedness, shall at or before the time of so doing, provide for the collection of an annual tax sufficient to pay the interest and also the principal thereof when due; and all laws or ordinances providing for the payment of the interest or principal of any debt shall be irrepealable.

SEC. 6. Consent is given that Congress may make such provision for the payment by this State of the existing indebtedness of the Territory of Dakota as it shall deem just and equitable, and this State shall assume and pay so much interest thereof as Congress shall provide.

ARTICLE XIII.

COUNTIES.

SECTION 1. The several counties of the Territory of Dakota south of the forty-sixth parallel of north latitude as they now exist are hereby declared to be counties of the State.

SEC 2. No new county shall be formed or established by the Legislature with a less area than five hundred square miles, nor shall any county already formed be reduced below such area.

SEC. 3. No county shall be divided or consolidated with any other county, or have any part stricken therefrom, without first submitting the question to a vote of the people of the county or counties interested, nor unless a majority of all the legal voters of such county or counties voting on the question shall vote for the same.

SEC. 4. There shall be no territory stricken from any organized county unless a majority of the voters living in such territory shall petition for such division; and the portion so stricken off added to another county, or formed in whole or in part into a new county shall be holden for and obliged to pay its portion of the indebtedness of the county or counties from which it has been taken.

SEC. 5. The Legislature shall provide by law for the election of such county and township officers as may be necessary, and fix the terms thereof.

SEC. 6. The Legislature shall provide by general law for township organization, under which any county may organize whenever a majority of the legal voters of such county, voting at any general election, shall so determine. And in any county that shall have adopted a township organization, the question of continuing the same may be submitted to a vote of the electors of such county, at a general election, in the manner that shall be provided by law.

ARTICLE XIV.

EXEMPTIONS.

SECTION 1. The Legislature shall pass liberal homestead and exemption laws.

SEC. 2. No change in the laws relating to the kind and amount of personal or real property exempt from seizure and sale for the payment of any debt shall take effect in the collection of any debt contracted prior to the taking effect of the act making such change.

ARTICLE XV.

CORPORATIONS.

SECTION 1. Corporations may be created under general laws, but shall not be created by special acts. except as in this constitution otherwise allowed. All general laws or special acts enacted under the provisions of this constitution relating to corporations, may be altered or repealed by the Legislature at any time after their passage.

SEC. 2. The property of corporations, except for charitable, religious and educational purposes, now existing and to be hereafter created, shall be subjected to a uniform rate of taxation with other property. which shall be levied and collected under general laws, and in such manner as the Legislature may prescribe.

SEC. 3. The State shall not become a stockholder in any corporation; and it shall not assume or pay the debt or liability of any corporation nor grant subsidies to any corporation, unless such debt or liability shall be incurred or such subsidy granted in time of war for the benefit of the State.

SEC. 4. No street, passenger railway, or telegraph or telephone line shall be constructed within the limits of any village, town or city without the consent of its local authorities.

SEC. 5. If a general banking law shall be enacted, it shall provide for the registry and countersigning by an officer of this State of all bills or paper credit designed to circulate as money, and require security to the full amount thereof to be deposited with the State Treasurer in the approved securities of this State or of the United States, to be rated at ten per cent. below their par value, and, in case of their depreciation, the deficiency shall be made good by depositing additional securities.

SEC. 6. Every bank, banking company or corporation shall be required to cease all banking operations within twenty years from the time of its organization, and promptly thereafter close its business, but shall have the corporate capacity to sue or to be sued until its business is fully closed, but the Legislature may provide by general law for the reorganization of such banks.

SEC. 7. The shareholders or stockholders of any banking corporation shall be held individually responsible and liable for all contracts, debts and engagements of such bank to the extent of the amount of their stock therein at the par value thereof in addition to the amount invested in such shares or stock.

SEC. 8. All railroad and transportation companies are declared to be common carriers and subject to legislative control and the Legislature shall have power to enact laws regulating and controlling the rates of charges for transportation, passengers and freight as such common carriers from one point to another in this State.

SEC. 9. The Legislature shall provide by law that in all elections for directors or managers of incorporated companies, every stockholder shall have the right to vote in person or by proxy the number of shares of stock owned by him for as many persons as there are directors or managers to be elected, or to cumulate said shares and give one candidate as many votes as the number of directors multiplied by the number of his shares of stock shall equal, or to distribute them on same principle among as many candidates as he shall think fit; and such directors or managers shall not be elected in any other manner.

ARTICLE XVI.

IMPEACHMENT AND REMOVAL FROM OFFICE.

SECTION 1. The House of Representatives shall have the sole power of impeachment. The concurrence of a majority of all the members elected shall be necessary to an impeachment.

SEC. 2. All impeachments shall be tried by the Senate; when sitting for that purpose the Senators shall be upon oath or affirmation to do justice according to law and evidence. No person shall be convicted without the concurrence of two-thirds of the members elected. When the Governor or Lieutenant Governor is on trial, the Chief Justice of the Supreme court shall preside.

SEC. 3. The Governor and other State and Judicial officers, except County Judges, Justices of the Peace, and Police Magistrates, shall be liable to impeachment for corrupt conduct, or malfeasance, or crimes, or misdemeanors in office, but judgment in such cases shall not extend further than to removal from office and disqualification to hold any office of trust or profit under this Sate. The person accused, whether convicted or acquitted, shall nevertheless be liable to indictment, trial, judgment and punishment according to law.

SEC. 4. All officers not liable to impeachment shall be subject to removal for misconduct or malfeasance, or crimes or misdemeanors in office, in such manner as may be provided by law.

SEC. 5. No officer shall exercise the duties of his office after he shall have been impeached and before his acquittal.

SEC. 6. On the trial of an impeachment against the Governor the Lieutenant Governor shall not act as a member of the court.

SEC. 7. No person shall be tried on impeachment before he shall have been served with a copy thereof at least twenty days previous to the day set for trial.

SEC. 8. No person shall be liable to impeachment twice for the same offense.

ARTICLE XVII.

SEAT OF GOVERNMENT.

The seat of government shall be and remain at Yankton until removed by law.

FUTURE AMENDMENTS.

SECTION 1. Any amendment or amendments to this constitution may be proposed in either house of the Legislature, and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals, with the yeas and nays taken thereon, and referred to the Legislature to be chosen at the next general election, and shall be published for thirteen weeks previous to the time of holding such election, in such manner as may be provided by law. And if, in the Legislature next chosen, such proposed amendment or amendments shall be agreed to by a majority of all the members elected in each house, then it shall be the duty of the Legislature to submit such proposed amendment or amendments to the people, in such manner and at such time as the Legslature shall prescribe; and if the people shall approve and ratify such amendment or amendments by a majority of the electors voting thereon, such amendment or amendments shall become part of the constitution; provided, that if five thousand legal voters shall petition the Legislature sitting after the admission of the State into the Union, to amend the constitution in any particular, then the Legislature shall submit such proposed amendment or amendments to the people at the next general election thereafter, or at a special election to be held not less than ninety days nor more than six months after the session of said Legislature shall be terminated, which submission shall be made in such manner as the Legislature shall prescribe, and if the people shall approve and ratify such amendment or amendments by a majority of the electors voting thereon, such amendment or amendments shall become a part of the constitution.

SEC. 2. If more than one amendment be submitted at the same time, they shall be submitted in such manner that the people may vote for or against such amendments separately.

SEC. 3. If at any time a majority of the Senate and House of Representatives shall deem it necessary to call a convention to revise or change this constitution, they shall recommend to the electors to vote for or against a convention at the next election for members of the Legislature; and if it shall appear that a majority of the electors voting thereon have voted for a convention, the Legislature shall at its next session provide for calling such convention.

ARTICLE XIX.

MISCELLANEOUS.

SECTION 1. The people of the State of Dakota are declared to possess the ultimate property in and to all lands within the jurisdiction of the State; and all lands the title to which shall fail from defect of heirs or otherwise, shall revert or escheat to the people.

SEC. 2. The exercise of the right of eminent domain shall never be abridged or so construed as to prevent the Legislature from taking the property and franchises of incorporated companies and subjecting them to public use, the same as property of individuals, and the exercise of the police power of the State shall never be abridged or so construed as to permit corporations to conduct their business in such manner as to infringe the equal rights of individuals or the general well-being of the State.

SEC. 3. Institutions for the benefit of the insane, blind and deaf and dumb shall always be fostered and supported by the State, and be subject to such regulations as may be prescribed by the Legislature.

SEC. 4. Whenever grants of land or other property shall have been made to the State, especially dedicated by the grant to particular works of public improvement, the State may carry on such particular works, and shall devote thereto the avails of such grants, and may pledge or appropriate the revenues derived from such works in aid of their completion.

SEC. 5. All such lands shall be appraised and sold in the same manner and by the same officers, and the minimum price shall be the same as provided by law and the constitution for the appraisement and sale of the school lands. All moneys derived from the sale of said land shall constitute the public improvement fund of the State.

SEC. 6. The following shall be the design of the great seal of the State of Dakota: A shield, draped with the American flag, depending from the beak of an eagle. In the background of the shield, a range of hills and the chimney of a smelting furnace. In the center of the shield, a river, bearing a steamboat. On the hither bank of the river a train of cars. In the middle foreground a field of wheat and a field of corn. In the immediate right foreground, a white man at his plow; in the left foreground, an Indian and tepees. Both white man and Indian are looking at a rift in the clouds, where appears the legend: "Fear God, and Take Your Own Part." This legend to be the motto of the State of Dakota.

SEC. 7. No law shall be passed with regard to taxes, making any distinction between the land and property of proprietors not resident in, nor citizens of, the State, and the land and property of the citizens of the State resident therein.

SCHEDULE AND ORDINANCE.

SECTION 1. That no inconvenience may arise from a change of the Territorial government to a permanent state government, it is declared that all writs, actions, prosecutions, claims and rights of individuals and of bodies corporate, shall continue as if no change had taken place in this government; and all process which may, before the organization of the Judicial department under this constitution, be issued under the authority of the Territory of Dakota, shall be as valid as if issued in the name of the State.

SEC. 2. All laws now in force in the Territory of Dakota, which are not repugnant to this constitution, shall remain in force until they expire by their own limitations or be altered or repealed by the Legislature.

SEC. 3. All fines, penalties, forfeitures and escheats accruing to the Territory of Dakota, shall accrue to the use of State.

SEC. 4. All recognizances, bonds, obligations, or other undertakings heretofore taken, or which may be taken before the organization of the Judicial department under this constitution, shall remain valid, and shall pass over to, and may be prosecuted in the name of the State, and all bonds, obligations, or other undertakings executed to this Territory, or to any officer in his official capacity, shall pass over to the proper State authority, and to their successors in office, for the uses therein respectively expressed; and may be sued for and recovered accordingly. All criminal prosecutions and penal actions which have arisen, or which may arise before the organization of the Judicial department under this constitution, and which shall then be pending, may be prosecuted to judgment and execution in the name of the State.

SEC. 5. All officers, civil and military, now holding their offices and appointments in this Territory under the authority of the United States, or under the authority of this Territory, shall continue to hold and exercise their respective offices and appointments until superceded under this constitution; provided, that nothing in this constitution or schedule contained shall be so construed as to authorize any officer elected under the provisions of this constitution to undertake the exercise or discharge of his official duties, or to be entitled to any pay or emoluments by virtue of such office until this constitution shall take effect by the admission of the State into the Union, except only that the Legislature may meet and elect two United States Senators, and the proper State officers may certify their election.

SEC. 6. The first meeting of the Legislature shall be held at the city of Yankton, at such time as is hereinafter provided.

SEC. 7. All county and township officers shall continue to hold their respective offices, unless removed by competent authority, until the Legislature shall, in conformity to the provisions of this constitution, provide for the holding of elections to fill such offices respectively.

SEC. 8. This constitution shall be submitted at the election to be held on the Tuesday next after the first Monday in November, A. D. 1883, to the electors qualified by this constitution to vote at all elections. If it shall appear that the majority of the votes polled at said election are for the constitution, then it shall be the constitution of the State of Dakota. But if it shall appear that a majority of the votes polled are against the constitution, then it shall be rejected and be null and void. At the election aforesaid the ballots shall be printed in the following form: For all persons giving affirmative votes, the words, "For the Constitution;" and for all persons giving negative votes, the words, "Against the Constitution." And the returns of the votes on the question of ratification or rejection of said constitution shall be made to the President of this convention on or before the thirtieth day of November, A. D. 1883, and a compiled return of the same shall be made by him and communicated by him to the Senate and House of Representatives of the State Legislature on the first day of their meeting and organization. In addition to the foregoing election for the constitution, an election shall be held by the said qualified electors of all that part of the Territory of Dakota included within the boundaries established by this constitution for the following State officers, to-wit: A Governor, a Lieutenant Governor, and all other State officers except judicial officers which are provided for in this constitution. Said election to be held on the day hereinafter provided, and at the same places and in the same manner as herein provided for the election for the adoption or rejection of the constitution. At the same time and places there shall be held an election by the qualified electors within their respective districts for Representatives and Senators of the State Legislature and for two Representatives in Congress which said election shall be held in the manner and form provided for the election for the adoption or rejection of the constitution.

SEC. 9. The first Legislature which meets after the admission of Dakota into the Union shall provide for the election of all Judicial and other officers not provided for in this constitution, and for the districting of the several Judicial districts.

SEC. 10. There shall be appointed by the President of this convention, as soon as possible after the adoption of this schedule and ordinance, a State Executive Committee, of which the President of this convention shall be the President, consisting of one member from each county in the State, which committee shall exercise the powers and perform the duties hereinafter conferred upon it, and shall continue in office until the assembling and organization of the State Legislature. Each member thereof so appointed shall be the Chairman of the County Board for the county for which he is appointed. There shall be a County Board in each county, consisting of three or more members who shall be appointed by the said Chairman of said County Board. The State Executive Committee herein provided for shall meet and organize in the city of Sioux Falls immediately upon their appointment, and before this convention shall adjourn, by the election of a Secretary and such other officers as may be necessary.

SEC. 11. Said committee shall have full power to do and perform all things necessary to the carrying into effect of the provisions of this ordinance and schedule with regard to elections, and to this end they shall have full power to make all necessary rules and regulations for such purpose; they shall make and issue instructions and regulations with regard to the details not herein provided for, as to elections, held in pursuance of this ordinance and schedule; they shall fill all vacancies in their own number or in the County Boards; they may, in case of necessity, call an adjourned meeting of this convention; they shall fix their own times and places of meeting, and three members shall constitute a quorum, with power to transact business. More than one inexcused absence from any meeting of the State Executive Committee by any member thereof shall, in the discretion of the committee, be deemed to work a vacancy in his office, which may be filled by the President of the committee; but any member may, in writing, delegate his power to act on the committee to any member thereof.

SEC. 12. The elections provided for herein shall be conducted in all respects as elections under the general laws of the Territory. The State Executive Committee and the several County Clerks of the several counties within the boundaries fixed by this constitution, and the several County Boards herein provided for, are hereby authorized, empowered and required to issue notices of the elections herein provided for at least ten days prior thereto by publication in the newspapers of each county, stating the object of such election and the officers to be chosen at the same; and shall otherwise conform as near as may be, to the notices of elections provided by law for general elections. Said notices shall also be posted by the several Sheriffs or County Boards of their respective counties in the manner required by law. The election precincts and polling places shall be the same as now provided by law for the annual election; but the County Boards or the County Commissioners of each county may, if they deem it expedient, at least ten days prior to such election, establish new precincts for the whole or any part of their respective counties, and fix the polling places therein. The County Boards of the several counties above designated are hereby authorized and empowered to appoint judges of election at each poll or voting place, and the said County Board may authorize the County Commissioners to appoint said judges of election. In case, for any reason the said judges of election are not appointed as above provided, or in case of the refusal, neglect or inability to act, of the judges of election, in the elections herein provided for, the qualified electors present at the polls may elect such judges of election. No mere technicality or informality in the manner or form of the election shall be deemed to vitiate or avoid the same, it being the true intent and object of this ordinance to ascertain and give effect to the true will of the people of the State of Dakota as expressed by their ballots at the polls.

SEC. 13. The judges of election herein provided for shall have authority to do and perform all things that are now required by law in the case of general elections of judges of election, and the canvass and return of the votes shall be in a manner and form now required by law in the case of general elections.

SEC. 14. The President of the State Executive Committee shall issue certificate of election to all persons who shall be ascertained to have been duly elected. The person receiving the highest number of votes at such election for each office herein named shall be declared elected to such office.

SEC. 15. Immediately after the elections herein provided for, the judges of election at each voting place shall make a true and complete count of all the ballots duly cast at such election, and shall certify and return the result of the same with the names of all the candidates and the number of votes cast for each, and the number of votes cast for and against the constitution, to the County Commissioners and to the several County Boards, and shall transmit to said Commissioners and County Board all the ballots, poll lists and election books used in such election.

SEC. 16. Within ten days after such election the several County Boards, or the County Commissioners, or both jointly, of the respective counties, shall make and certify under oath to the President of the State Executive Committee a true and honest return of the total number of votes cast in their respective counties, of the number of votes cast for the constitution and against the constitution, and of the number of votes cast for each person voted for at such election; and shall transmit the same to the President of the State Executive Committee by mail, and shall file for record a duplicate and certified copy of said return with the County Clerk of said county.

SEC. 17. The President of the State Executive Committee shall receive all returns of the election transmitted to him as above provided, and shall preserve the same. Within forty days after said election the President of said Executive Committee, together with such members of said committee as may assemble with him, and with the Secretary of the Territory, the Chief Justice of the Territory, the Judges of the Supreme court, if they will so act, with such other officers of the Territory as he may associate with him, who shall consent to act, shall canvass and compile the certificates and returns of such election, and shall ascertain by a count of the same the total number of votes cast at such election, the total number of votes cast "For the Constitution," and "Against the Constitution," and the total number of votes cast for each person voted for at the said election, and shall declare the result of said election, and make proclamation thereof in the newspapers of the Territory. They shall also make and certify a list of votes so cast, and of the names of the officers and of the Senators and Representatives who shall thus be ascertained to have been duly elected. They shall also make and transmit to the State Legislature, upon the first day of its assemblage, a true return of said election and of the names of all officers and Representatives and Senators so elected, and of the number of votes cast for each. Said list of Senators and Representatives shall constitute the roll with which the Senate and House of Representatives respectively shall be organized.

SEC. 18. On the first day of the assemblage of the State Legislature the Governor and other officers of the State shall take the oath of office in the presence of the Legislature. The oath of office shall be administered to said officers and to the Senators and Representatives by the Chief Justice of the Territory, or by any judicial officer of the Territory, or by the President of the State Executive Committee.

SEC. 19. Any vacancy in the office of the President of the State Executive Committee shall be filled by the State Executive Committee, or a quorum thereof, as soon as may be after such vacancy, at a meeting to be held at the place designated as the official quarters of the said committee.

SEC. 20. Any county attached to any county for judicial purposes, if not otherwise represented, shall be considered as forming part of such county, so far as regards elections for the Senate and House of Representatives.

SEC. 21. For the purposes of the election provided for in this schedule, the elections of the State officers, members of the State Legislature and Representatives in Congress, shall be held according to the apportionment made by the constitution. At the first election held under this schedule for Senators and members of the Legislature, there shall be elected thirty-two Senators and eighty-one Representatives, and these shall be the members of the Senate and House of Representatives, respectively.

SEC. 22. The first election held under the provisions of this constitution for the election of such officers as are provided to be elected in section eight shall be held at such time after the adoption of this constitution as the State Executive Committee shall provide; and the Legislature thereat elected shall convene on such day as the President of said State Executive Committee shall designate; and in case a new election of said officers shall be deemed necessary for any reason for the complete putting in operation of the provisions of this constitution, said committee are authorized and empowered to call another election, and to do any act or thing requisite and necessary to the conduct thereof.

SEC. 23. The ordinance and schedule enacted by this convention shall be held to be valid for all the purposes thereof.

BARTLETT TRIPP, President.

Attest:
C. H. WINSOR, Secretary.
H. M. AVERY, Recording Secretary.

This constitution was submitted to a vote of the people at an election held the first Tuesday in November of that year and adopted, the vote being 12,336 for and 6,814 against. Congress refused to recognize this constitution and the movement came to naught, except that it served its purpose to intensify the convictions of South Dakotans for the division of the territory.

Convention of 1885.

The territorial legislature of 1885 enacted a law providing for a constitutional convention for the portion of the territory lying south of the forty-sixth parallel of north latitude. The election for delegates was held June 30, and resulted in the choice of the following:

Aurora—H. F. Fellows and Matt A. Ryan.

Beadle—J. H. More, J. K. P. McCallum, F. F. B. Coffin, S. C. Weatherwax, J. M. Baker.

Bon Homme—Robert Dollard, George W. Snow, Daniel Wilcox.

Brookings—Miles White, Warren M. Wright, R. C. Walton.

Brown—J. D. Mason, C. J. McLeod, George R. Laybourne, J. T. Dow.

Brule—A. G. Kellem, C. J. Maynard, C. M. Gregory.

Buffalo—H. J. Grant.

Campbell—Frank Alexander.

Charles Mix—Thomas Elfes.

Clark—John E. Bennett, R. A. Proudfoot.

Clay—John M. Cleland, J. M. Schultz.

Codington—Stephen G. Updyke, I. M. Westfall.

Custer—Stephen M. Booth.

Deuel—Charles S. Lowe.

Edmunds—S. H. Cranmer.

Faulk—E. M. Jessup.

Grant—Henry Neill, N. I. Lowthian.

Hamlin—C. E. Andrus.

Hand—M. E. Williams, H. M. Smith, L. W. Lansing.

Hanson—W. H. Murphy, Isaac Gray, Sr.

Hughes—James A. Ward, Samuel Miller, William A. Lichtenwallner.

Hutchinson—David Belton, William Harding, C. Buechler.

Hyde—George C. Crose.

Jerauld—S. H. Huntley, Albert Gunderson.

Kingsbury—John A. Owen, H. H. Sheets.

Lake—George L. Wright, William McGrath.

Lawrence—Gideon C. Moody, Dighton Corson, Kirk G. Phillips, Frank C. Ayers, W. H. Parker, John Johnson, Leo. H. Weeden, Alpheus E. Frank.

Lincoln—Jeremiah Geehon, J. W. Taylor.

McPherson—Frank Gault, Sr.

McCook—T. H. Coniff, W. H. Goddard.

Miner—John H. Patten, S. A. Jones.

Minnehaha—W. W. Brookings, E. P. Beebe, A. J. Berdahl, C. S. Gifford, J. B. Goddard, E. T. Oaks.

Pennington—J. W. Fowler, W. H. Mitchell.

Potter—Willis C. Stone.

Roberts—W. G. Ashton.

Sanborn—Theodore D. Kanouse, Robert Dott.

Spink—J. B. Churchill, Frank I. Fisher, C. H. Myers, G. C. Britton, George Boyer, F. H. Craig.

Sully—C. M. Reed, H. F. Pendleton.

Turner—A. Haines, Joseph Allen, N. C. Tychsen, R. C. Tousley.

Union—H. H. Blair, J. P. Kendall, John Dall.

Walworth—R. B. Potter.

Yankton—A. J. Edgerton, Joseph Ward, Joseph R. Hanson, Hugh J. Campbell.

The convention assembled at Sioux Falls on September 8, 1885, and continued in session sixteen days. Judge Alonzo J. Edgerton was chosen president and John Cain, of Huron, secretary. The constitution adopted by the convention was submitted to the people at an election held in November, and was adopted by a vote of 25,226 for the constitution and 6,565 against it. At the same time a full set of state officers were elected as follows:

Governor, A. C. Mellette.

Lieutenant Governor, A. E. Frank.

Secretary of State, Hugh S. Murphy.

Auditor, Frank Alexander.

Treasurer, D. W. Diggs.

Attorney General, Robert Dollard.
Superintendent of Public Instruction, A. Sheridan Jones.
Commissioner of School and Public Lands, W. H. H. Beadle.
Supreme Court, D. Corson, A. G. Kellam, John E. Bennett.
Members of Congress, Oscar S. Gifford, Theodore D. Kanouse.

Huron was chosen the temporary seat of government, and the legislature elected at the time of the adoption of the constitution met there on December 14th and elected Gideon C. Moody and Alonzo J. Edgerton, United States senators. At the election for the constitution a provision prohibiting the manufacture and sale of intoxicating liquors was submitted separately, as also was the question of "minority representation." Prohibition prevailed by a vote of 15,570 for, to 15,337 against. Minority representation failed by a vote of 11,273 for and 15,765 against. In the choice of temporary capital, Huron received 12,695 votes, Pierre 10,649, Chamberlain 3,232, Sioux Falls 3,383, and Alexandria 1,374.

Congress, however, again spurned the plea of South Dakota for recognition and nothing was accomplished, although the propoganda for division and admission was carried on with unabated zeal for several years, until in the national campaign of 1888 the republican party made the admission of Dakota a political issue and the people of the country became thoroughly informed and aroused upon the subject, so that upon the convening of congress for the short session it was generally understood that favorable action would be taken before adjournment. Consequently, on February 14, 1889, the omnibus bill was passed providing for the admission of South Dakota, North Dakota, Montana and Washington, and the act relating to South Dakota, after providing for the election of a new constitutional convention, contained this further provision: "Provided, that at the election for delegates to the constitutional convention for South Dakota, as hereinbefore provided, each elector may have written or printed on his ballot the words, 'For the Sioux Falls Constitution,' or the words, 'Against the Sioux Falls Constitution,' and if a majority of all votes cast upon this proposition be for the Sioux Falls constitution it shall be the duty of the convention which may assemble at Sioux Falls as herein provided, to resubmit to the people of South Dakota, for ratification or rejection, the constitution framed at Sioux Falls and adopted November 3, 1885."

The election was held on May 14, and the constitution of 1885 was almost unanimously ratified.

The convention assembled at Sioux Falls on July 4 and remained in session thirty-two days. It was chosen from districts, generally more than one county in extent, by the minority representation plan, and consequently about one-third of its membership was democratic. Owing to the ratification by the people of the constitution of 1885, the powers of this convention were limited to certain specific things, as changing the boundaries from the forty-sixth parallel of north latitude to the seventh standard parallel as the dividing line between North Dakota and South Dakota; the change of the name of the state from Dakota to South Dakota; the reapportionment of the judicial and legislative districts; and the division of the territorial property, effects, records and debts equitably between North Dakota and South Dakota; and finally the adoption of a new schedule and ordinance for carrying the constitution into effect.

The constitution thus modified was again submitted to the people on October 1, 1889, and adopted by a vote of 70,131 for to 3,267 against. Prohibition of the manufacture and sale of liquors was submitted separately and carried by 40,234 for to 34,510 against, and minority representation was defeated by 23,309 for and 45,397 against.

The returns of the election were duly certified to the president on the 28th of October, and upon November 2, 1889, Benjamin Harrison, president of the United States, issued his proclamation admitting South Dakota to the Union upon an equal footing with the original states.

Misfortunately, the files of the convention of 1885 have been lost, so that the papers and resolutions generally discussed there cannot be presented, and without them the debate is sometimes rather ambiguous. In the main, however, the subject matter is sufficiently developed in the argument to clearly indicate its pertinence to the constitutional provision under consideration.

Legislative Authority.

Chapter 33, Laws of 1885

AN ACT providing for a Constitutional Convention and the Formation of a State Constitution Preparatory to the Admission of Dakota into the Union, and for other purposes.

PREAMBLE.

WHEREAS, Experience has abundantly demonstrated that the welfare of the people is promoted by the establishment among them of a permanent government, sovereign in character and republican in form; and

WHEREAS, The territorial system of government has no stability, is temporary in character, possessing no sovereign powers, and meets neither the requirements of the people, nor, in the case of Dakota, the rapidly increasing demands of its various and growing interests; and

WHEREAS, It has been and still remains the wise policy of the parent government to foster and encourage the development and settlement of the Territories until such time as their population shall be sufficiently numerous to entitle the people to be admitted into and become a part of the United States, on an equal footing with the States which compose the Union; and

WHEREAS, That part of the Territory of Dakota south of the 46th parallel of latitude now contains a population sufficient to entitle it to admission into the Union, and such population now being desirous of being fully enfranchised and enjoying all the privileges of American citizenship; and

WHEREAS, Public opinion of the United States has decided, and the Congress of the United States by their action upon the bill for the admission of such part of Dakota into the Union, has admitted, that that portion of Dakota south of the 46th parallel does possess the requisite population and all other qualifications necessary to entitle it to admission into the Union as a State; therefore

Be it enacted by the Legislative Assembly of the Territory of Dakota

1. CONVENTION PROVIDED FOR.) That for the purpose of enabling the people of that part of Dakota south of the 46th parallel to organize and form a State government and make application for admission into the Union of States, a delegate convention is hereby called to meet at the city of Sioux Falls in the county of Minnehaha, in said Territory of Dakota, on Tuesday, the eighth day of September, A. D. 1885, at twelve o'clock, meridian, for the purpose of framing a Constitution, republican in form, and performing all other things essential to the preparation of the Territory for making application to the general government for the admission of such part of Dakota into the Union of States.

2. APPORTIONMENT.) The said convention shall be composed of one hundred and eleven delegates, who shall be apportioned among the several counties of that part of the Territory south of the 46th parallel as follows:

Aurora	2
Bon Homme	3
Buffalo	1
Brule	3
Campbell	1
Charles Mix	1
Clay	2
Custer	1
Day	2
Douglas	2
Fall River	1
Lawrence	8
McCook	2
Miner	2
Minnehaha	6
Pennington	2
Roberts	1
Spink	6
Grant	2
Hand	3
Davison	2
Deuel	1
Edmunds	1
Faulk	1
Hughes	3
Hyde	1
Kingsbury	2
Lake	2
Lincoln	2
McPherson	1
Beadle	5
Brookings	3

Brown	4
Turner	4
Walworth	1
Moody	2
Potter	1
Sanborn	2
Sully	2
Union	3
Yankton	4
Butte	1
Clark	2
Codington	2
Hamlin	1
Hanson	1
Hutchinson	3
Jerauld	2

Provided, that all organized counties in the Territory south of the 46th parallel, at the time the election hereinafter provided for is held to choose members to said convention, and which counties are not above named, shall be entitled to one delegate, who shall be given a seat, and have a vote in said convention, as other members thereof, and said delegates shall be in addition to the one hundred and eleven heretofore provided for.

3. TIME OF ELECTION AND CONVENTION.) An election for the purpose of choosing said delegates is hereby appointed to be held on the thirtieth day of June (Tuesday), 1885; at which time the delegates to the said Constitutional Convention shall be chosen; said election shall be conducted in all respects as elections under the general laws of this Territory. And the several county clerks of the several counties of the Territory are hereby required to issue notice of such election, at least twenty days prior thereto, stating the object of such election, and the number and character of the officers to be chosen, and shall deliver the same to the sheriff, who is required to post the same, as the law now requires; and the several boards of county commissioners are required to establish precincts for such election, and to appoint polling places and judges of such election, and to do and perform all things that are now required of them by law in the case of general elections; and the canvass and return of the votes shall be as now required by law in the case of county officers. And it is hereby made the duty of the several county clerks to issue certificates of election to all persons who shall be declared elected; provided, that the persons receiving the highest number of votes at such election shall be elected as such delegates. It shall be the further duty of such county clerks, within ten days after such election, to certify to the Secretary of the Territory the names of all persons chosen as such

delegates from their respective counties, and to transmit the same to the Secretary by mail.

4. SECRETARY TO RECEIVE RETURNS.) The Secretary of the Territory shall receive all certificates so transmitted to him by the several county clerks, and shall preserve the same, and it is hereby made his duty to enter the names of all persons so certified to him as such delegates in a book which he shall provide for that purpose.

5. ORGANIZATION OF CONVENTION.) The delegates so elected at such election shall meet at the time and place appointed by this act, and in such room as the Secretary of the Territory, or the convention, have provided; and at the hour heretofore named, the Secretary of the Territory, or some member elect of said convention, shall call the convention to order, and shall call the roll of the members from the book heretofore provided, if such book can be obtained, and if not, from the official returns of said election, and the certificate of election of each member, in such manner as the convention shall prescribe, and the several delegates as their names are called, shall take their seats in said convention. When the calling of the roll of members shall be completed the several delegates shall be required to take and subscribe an oath to support the constitution of the United States, and to faithfully and impartially discharge their duties as delegates to said convention; said oath may be administered by said Secretary or by any judicial officer of the Territory. The convention shall then proceed to organize by the election of a president, who shall be chosen from among the delegates, and the other officers herein provided for. Said convention shall adopt such rules and regulations for their government as are provided in the case of legislative bodies. It may adjourn from time to time, and shall be the sole judge of the election and qualifications of its members. The president and all officers of said convention shall take and subscribe an oath to faithfully and impartially discharge the duties of their respective offices.

6. DUTY OF CONVENTION.) Said convention after its organization shall proceed to draft a constitution for that portion of Dakota south of the 46th parallel, republican in form, in which shall be defined the boundaries of the proposed State south of the 46th parallel. It shall be the further duty of said convention to provide for an election by the people of the proposed State, at which election the said constitution shall be submitted to the people for ratification; and at which election the State officers, members of Congress, members of the Legislature, and all other officers provided for in said constitution shall be elected; and the said convention shall have power to provide all necessary means for holding said election, and for reassembling said Legislature when elected, and for carrying into effect all the purposes of said constitution; Provided, that the expenses of all special elections

under the provisions of this act, and of any ordinance of said convention, shall be paid by each county in said Territory respectively.

7. PER DIEM.) The delegates to the said Constitutional Convention shall each receive a per diem of two dollars and fifty cents ($2.50) for each day's attendance upon said convention, and five cents per mile for each mile necessarily traveled in going to and returning from said convention; said per diem and mileage to be paid by the Territorial Treasurer upon the warrant of the Territorial Auditor.

8. ACCOUNTS TO BE AUDITED.) The Territorial Auditor is hereby authorized to audit and allow the accounts of the several delegates to said convention, upon certificates of the presiding officer of said convention, countersigned by the secretary thereof.

9. OFFICERS OF CONVENTION—PROVISO.) Said convention shall have power to elect a secretary, assistant secretary, employ stenographers, a chaplain, sergeant-at-arms, messengers and clerks, and janitor, each of whom shall receive such compensation as the said convention shall determine, to be audited and paid in the same manner as the accounts of the members of said convention are audited and paid; Provided, that said convention before the adjournment shall ascertain the entire expense of holding the same, including the per diem and mileage of its members, compensation of its officers, and all necessary expenses, and shall certify the same under the hand of the presiding officer of said convention and attested by the secretary thereof to the Secretary of Territory, and which shall be filed by said Secretary of the Territory in his office, and be kept as a record thereof; and it is hereby made the duty of the several boards of county commissioners of the counties named herein or represented in said convention, to cause to be levied and collected in the same manner as other taxes are levied and collected, a special tax sufficient to pay all of said expenses, which tax shall be apportioned among the said counties in proportion to the assessed valuation; and when said tax is collected in each of said counties, the same shall be paid by said counties into the territorial treasury; Provided, that in case of the division of the Territory of Dakota, or the admission of the southern half as a state before the collection and payment of said tax into the territorial treasury as herein provided, then the Treasurer of said State or Territory formed from that portion of Dakota south of the 46th parallel, as the case may be, shall pay over to the Territory of North Dakota such proportion of said moneys as the assessed valuation of the property of South Dakota, in said new State or Territory.

10. STATE ELECTION.) The laws now in force governing elections, and the canvass and return of the votes cast therein, and the qualifications of voters, shall govern in any election that may be held under this act or under any ordinance of said conven-

tion; but said convention shall designate the board of State canvassers, and ordain the method by which the result of the State election shall be promulgated. The said convention shall also provide the manner of presenting the said constitution to the Congress of the United States, and do and ordain all things necessary to be done for the purpose of carrying into effect the government of the State, as soon as it shall be admitted into the Union of states.

11. LIMIT OF PAY.) That the members of said convention shall not receive pay for a session of more than thirty days, but said convention may sit for a longer period, and may adjourn from time to time.

12. APPROPRIATION.) That for the purpose of defraying the expenses of said convention, there is hereby appropriated out of any money in the territorial treasury, not otherwise appropriated, a sum sufficient to defray the expenses of said convention, not to exceed in the aggregate the sum of twenty thousand dollars.

13. This act shall take effect after its passage and approval.

Approved March 9, 1885.

The Convention.

Sioux Falls, Dakota, Sept. 8, 1885.

The delegates elected to form a Constitution and State Government for the Territory of Dakota south of the 46th parallel of latitude, this day assembled, pursuant to the provisions of the foregoing law, at the city of Sioux Falls, Dakota, at Twelve o'clock M.

Secretary Teller: The convention will please come to order. The convention will be opened with prayer, by the Rev. Mr. Jamison, of Sioux Falls.

Prayer

Our Father and our God, we are glad today to recognize Thy right in us and Thy authority over us. We are not our own; we belong to Thee; we depend upon Thee, for we know all that we enjoy that is perfect and good comes from Thee. We are glad our Heavenly Father, that we have been taught as individuals and as a nation to look to Thee as the source of our wisdom and our strength and our protection.

We come to Thee to implore Thy blessing upon us as we have gathered together on this important occasion to consider the interests of this coming state. Oh God, Thou who rulest among the nations of the earth; Thou who art King of Kings, and Lord of Lords, by whom princes rule, and judges and all the nobles of the earth decree justice, we implore Thy fatherly benediction upon us; we implore Thy divine help. We thank Thee, Our Heavenly Father, for the care Thou hast had over this nation from its infancy to the present hour; that in all the emergencies through which it has passed Thy hand hast led; Thy care has been manifest and we know that our present greatness is the result of Thy care and of Thy love.

And now, Oh God, we come again to acknowledge our dependence upon Thee. We pray, our Heavenly Father, that as this Convention has convened for the purpose of forming a Constitution for the coming state of Dakota, we pray that Thy wisdom may be imparted to these men, that they may be guided aright, and that their deliberations may be such as God will approve and such as shall bless the coming generations who shall live under the Constitution of the state about to be made.

Now, Oh Father, we pray that Thou will guard the interests of this coming state. May nothing be tolerated in its laws that will in any wise recognize or legalize evil, but may everything that would have a tendency to work evil among the people—that would destroy the peace or the happiness of the homes of the people—may it be carefully guarded against.

Grant, Oh God, that the provisions of the Constitution may be such that coming generations may live under its benign influences and may be blessed indeed.

We pray, Heavenly Father, that Thou wilt in a very gracious and special manner care for this Convention; especially care for the individual members of it and for their families who are left at their homes. And we pray not only, Heavenly Father, for this convention and for the coming State of Dakota, but that when another star shall be added to the banner of this God-honored and God-protected nation, that it may come in as one of the stars of the first magnitude and may be a blessing to the generations who shall come. Command Thy blessing, we pray Thee, upon the entire nation; upon all the states of the Union; upon all those who are occupying positions of trust and authority. Bless the President of this country and all the members of the Senate and Congress and all the officers of state. And grant, Oh God, that this nation may be guided in the future as in the past, and may be a nation honoring God; a nation loving the truth; a nation hating iniquity; and a nation that shall honor God in all its future career.

Hear us in our prayer; bless us in this and in all added sessions of this conevention, and ultimately, when our work is done, bring us to the everlasting home, for Jesus' sake, AMEN.

Secretary Teller: The law provides for the compilation of a list of delegates from the returns made to the Secretary's office, and the names of those members which appear upon this list are entitled to seats upon the floor. From this list I will now call the roll.

The following named delegates responded to their names:

Alexander, Frank, Campbell county.
Allen, Joseph, Turner county.
Andrus, C. E., Hamlin county.
Beebe, E. P., Minnehaha county.
Berdahl, A. J., Minnehaha county.
Booth, Stephen M., Custer county.
Britton, G. C., Spink county.
Brookings, W. W., Minnehaha county.

Brown, Robt. J., Buffalo county.
Campbell, H. J., Yankton county.
Churchill, J. B., Spink county.
Coffin, F. F. B., Beadle county.
Coniff, T. H., McCook county.
Corson, D., Lawrence county.
Craig, T. G., Spink county.
Cranmer, S. H., Edmunds county.
Dollard, Robt., Bon Homme county.
Dow, J. T., Brown county.
Fisher, F. I., Spink county.
Gault, Frank, McPherson county.
Goddard, J. B., Minnehaha county.
Gray, Isaac, Hanson county.
Haines, A., Turner county.
Jones, S. A., Miner county.
Kellam, A. G., Brule county.
Laybourne, G. R., Brown county.
Lowthian, N. I., Grant county.
Maynard, C. J., Brule county.
McLeod, C. J., Brown county.
Miller, S., Hughes county.
More, J. H., Beadle county.
Neill, Henry, Grant county.
Owen, J. A., Kingsbury county.
Potter, B. B., Walworth county.
Reed, C. M., Sully county.
Schultz, J. M., Clay county.
Stone, W. C., Potter county.
Tychsen, W. C., Turner county.
Ward, J. A, Hughes county.
Weatherwax, S. C., Beadle county.
Williams, M. E., Hand county.
Wright, W. M., Brookings county.
Edgerton, A. J., Yankton county.
Frank, A. E., Lawrence county.
Gifford, C. S., Minnehaha county.
Goddard, W. H., McCook county.
Gunderson, A., Jerauld county.
Hanson, J., Yankton county.
Kanouse, T. D., Sanborn county.
Lansing, L. W., Hand county.
Lichtenwallner, W. A., Hughes county.
Mason, J. D., Brown county.
McCallum, J. K. P., Beadle county.
Meyers, C. H., Spink county.
Moody, G. C., Lawrence county.

Murphy, W. H., Hanson county.
Oakes, E. I., Minnehaha county.
Patten, J. H., Miner county.
Pendleton, H. T., Sully county.
Ryan, M. A., Aurora county.
Snow, Geo. W., Bon Homme county.
Tousely, R. C., Turner county.
Walton, R. C., Brookings county.
Ward, Joseph, Yankton county.
Westfall, I. M., Codington county.
Wright, Geo. L., Lake county.

Secretary Teller: Sixty-six members answer to their names, being more than a quorum. The members will now take the oath of office. You will please rise.

You and each of you solemnly swear that you will support the Constitution of the United States, and faithfully and impartially discharge the duties of delegate to the Constitutional Convention, this day convened, so help you God.

Secretary Teller: The counties of Davison, Day, Moody and Douglas report no elections, and the other counties, except those I have called, I have no returns from whatever. The law provides that the members of the convention, after taking the oath of office, shall proceed to the election of a president, and that is the next business in order.

Mr. Lowthian: I present the name of the Honorable A. J. Edgerton, of Yankton county, as president of this convention.

Which motion was duly seconded and, upon a vote, unanimously carried.

Secretary Teller administered the following oath to the president of the convention:

You do solemnly swear, upon oath, that you will faithfully and impartially discharge the duties of President of this Constitutional Convention. So help you God.

Secretary Teller: I have the honor to present to the Convention your president, the Honorable A. J. Edgerton.

Who addressed the convention as follows:

Gentlemen: I return to you my sincere thanks for this expression of your confidence. This distinguished honor is unexpected, and unsought, and I might add, undesired. To be a member of a convention called to frame the organic law of a great commonwealth is a distinguished honor. To be selected to preside over the deliberations of such a convention requires a peculiar training and experience, which I do not claim, and I am constrained to accept the place only in consideration of the manner in which it was bestowed, and the further fact that the personnel of this body assures me that in the discharge of the trying duties imposed I shall receive your kind indulgence.

We have met here under peculiar circumstances. Congress has passed no enabling act.

The legislature of this Territory last winter authorized delegates elected from Southern Dakota to meet for the purpose of forming a Constitution, republican in form, and performing all other things essential to the preparation of the Territory for making application to the General Government for the admission of such part of Dakota into the Union of states.

The whole territory has about 150,000 square miles, and if divided on the proposed line each portion will have 75,000 square miles, or thereabouts.

Our growth has been phenomenal, in products, in wealth and in population.

The number of inhabitants of the Territory is now 415,664, as ascertained by the recent census, of whch North Dakota has 152,199, and South Dakota 263,465.

This portion of Dakota has today a greater population than any Territory ever admitted into the Union. It has greater wealth, and pays annually more taxes; it has more organized and equipped public institutions than any Territory ever had since the formation of the Government.

Under such circumstances, is it remarkable that our people should desire admission? Our duty here under the circumstances may be a delicate one, but it is nevertheless a plain one, but requiring knowledge, judgment and patriotism in its performance. Our deliberations should, as I have no doubt they will, be characterized by the utmost prudence and discretion.

It is said by some that our acts will ce useless from the fact that our enemies will never consent to division and admission. The men who thus prophecy most cruelly judge, (as I think) the foremost statesmen of the nation. I have that confidence in the patriotism, the justice, and the sound judgment which have generally characterized the public acts of these leaders, which induces me to believe that they will act wisely when this question is fully presented. (Applause). But whatever may be the determination of the President and the Congress of the United States, whether in accord with the wishes of our people and the best interests of the nation, as we believe, or otherwise, we shall acquiesce obediently, although if the decision be against us, reluctantly. Let us bring to the discharge of our duties here all the light which experience can furnish us, and all the judgment and wisdom which nature and education have endowed us with. Probably in the future, when this commonwealth has grown to be great and one of the leading states of the Union, standing abreast with her sister state on the east and our sister state on the south, it may not be said of us as it is frequently of the framers of the constitutions of those two great commonwealths, that they have builded better than they knew, but it is sufficient to fill the measure of a good man's ambition to feel assured that those who come after us may be able to say that we builded as well as we knew. (Applause).

By the President: What is the further pleasure of the Convention?

Mr. McCallum: I move that we proceed to the election of a secretary of this convention.

Mr. Lowthian: Mr. President, I will present the name of John Cain, of Huron, as Secretary of this convention.

Which motion was in due form seconded, put, and carried.

Mr. Cain reported for duty, and was sworn in as follows by the President:

You do solemnly swear that you will discharge faithfully and impartially the duties of Secretary of this Constitutional Convention, So help you God.

By the President: What is the further pleasure of the Convention?

Mr. Brookings: I do not think, Mr. President, it will require any motion to take up each of these officers as we proceed to elect them, and I would nominate Mr. Avery, of Minnehaha county, as the Assistant Secretary of this Convention.

Mr. Avery was, in due form, declared the choice of the Convention for Assistant Secretary, upon vote, and by Secretary Teller, duly sworn in.

By the President: The question has been raised with reference to the other persons by the Secretary. The Ninth Section seems to provide that the Secretary and Assistant Secretary are the officers to be sworn in; the others are the employees of the Convention. Is that the construction the delegates place upon Section Nine?

Mr. Moody: Mr. President, in answer to the inquiry of the chair, I would state my view of it is that the Convention is now organized and ready to proceed to business.

The order of business has not yet been prepared, but of course during the preparation of the order of business it is necessary that we should have some employees and among them a Sergeant-at-Arms is essential, and I judge by the appearance of the room here, a Janitor also; and I think then after they are appointed that perhaps it will be wise for us to appoint a committee on rules and order of business and take a recess until that committee may be able to report, and then they may be charged with the suggestion to the Convention of the Stenographers that are necessary to be employed, and the other employees. And therefore, Mr. President, I move you, Sir, that the Chair be authorized at this time to appoint a Sergeant-at-Arms and a Janitor to act during the session, subject to such order as the Convention may hereafter make in reference to the pay provided for them. Of course, I think we should proceed in an orderly manner as speedily as possible to fix, as it is our duty, the pay of these employees, so that the person accepting a position will know precisely what he is getting and the conditions of his position. I make that motion, that the Chair be authorized to appoint a Sergeant-at-Arms and a Janitor.

Mr. Lowthian: I second that motion.

Mr. Brookings: I would like to have the gentleman modify his motion a little. The Sergeant-at-Arms is usually elected by the convention. I think the caucus here this morning made a nomination presenting to the Convention as Sergeant-at-Arms a gentleman from Union county. It was also suggested at that caucus that the chair appoint from time to time such messengers as were necessary, and doorkeeper. I think that suggestion a good one. I would like to have the gentleman from Lawrence county accept the amendment of the single exception.

If some gentleman from Union will nominate their candidate he can be elected.

By the President: I am informed by the Secretary, under the contract hiring the hall. the owners furnish a janitor.

Mr. Campbell of Yankton: I think this Convention should have control of its own Janitor.

Mr. Kanouse: I nominate to the Convention Mr. M. B. Kent, of Union county, for Sergeant-at-Arms, and move his election.

Mr. Moody: I withdraw my motion.

Mr. Kent reported for service immediately upon his election by the Convention.

Mr. Moody: I move you, Sir, that the Chair appoint a committee of seven, on Rules and Order of Business, and that the committee be charged with the suggestion to the Convention of the requisite number of employees and also their compensation.

Which motion was seconded and upon being submitted to vote, was duly carried.

Mr. Kanouse: Mr. Blair, from Union county, is here duly credentialed, but it seems that the clerk of his county did not report to the Secretary of the Territory, his name. Will it be necessary to especially consider such cases by committee on credentials, or will a certificate of election be considered as evidence, to be passed up at this time to the Secretary, of such members as may be present to be sworn in?

By the President: It is within the power of the Convention to control these matters.

Mr. Kanouse: I move you then, Sir, that the delegates who are properly credentialed and who have not been sworn in, present their credentials at this time, and if the Secretary is satisfied with the same, that they be sworn in.

Above motion was, upon vote, duly carried.

Mr. Kanouse: I offer the resolution that the President of this Convention be requested to invite the several resident clergymen of this city to attend this Convention and open the sessions with prayer; said clergymen to arrange among themselves the order of their services.

Which resolution was in due form carried.

Mr. Neill, of Grant, offered the following preamble and resolution:

Whereas, The 16th Legislative Assembly of the Territory of Dakota assumed the right to authorize the calling of a Constitutional Convention for that portion of the Territory south of the 46th parallel, a movement which ought to have its origin from the people themselves of that portion of the Territory effected thereby; and

Whereas, It is not the desire of the people of this Territory that the same should be divided, and said portion admitted separately to statehood, but that they desire admission as a whole;

Therefore, Be it moved that this Convention do now adjourn sine die.

Mr. Laybourne: Voicing the sentiments of Brown county, and also those of the north tier of counties, I most heartily second that motion.

Mr. Kanouse: I move to lay the resolution on the table.

Mr. Brookings: That motion of the gentleman, of course, cuts off all debate. But I do hope that he will give the gentlemen from Brown county a chance to present their views and reasons for the resolution. Let us not choke anything off; let them present their views, and let us have a square vote upon this. I know I am out of order, but let it go out to the world just how we stand upon this matter.

Mr. Stone: As I read from the first part of Section 6, you will find the motion is out of order. "Said convention, after its organization, shall proceed to draft a constitution for that part of Dakota south of the 46th parallel." (Applause).

By the President: The motion before the Convention is that the preamble and resolution proposed by the gentleman from Brown county be laid upon the table. Are you ready for the question? Those who are of the opinion that the motion should prevail, say Aye. Those opposed say No.

The Chair declares that the ayes have it.

Mr. Neill: I call for a vote of the counties upon that.

By the President: The Secretary will call the roll of counties by delegates. Those in favor of the motion of the gentleman from Sanborn county that this motion lie upon the table, will answer Aye as their names are called. Those opposed, No.

Mr. Westfall: I propose to vote No, and I wish to tell why. I simply vote No, because I wish to hear what these gentlemen have to present as their reasons.

By the President: The motion of the gentleman from Sanborn county that the preamble and resolution lie upon the table, 71 votes were cast; 59 ayes, and 12 nayes. The motion prevails and the resolution is laid upon the table. (Applause).

Mr. Moody: Now, to end this matter once and for all, I move that this motion to lie upon the table be reconsidered, and that the motion to reconsider lie upon the table.

Which motion prevailed.

By the President: I will appoint as the committee on rules and order of business, Moody, Kanouse, Campbell, Kellam, Ward of Hughes, Brookings, and Neill.

On motion, the Convention took a recess until 4 p. m.

Convention called to order at 4:35 p. m.

By the President: It has been suggested by the Secretary that it would be more convenient for him if all motions and resolutions be reduced to writing and signed by the mover.

Recess of ten minutes.

Convention called to order.

Mr. Moody: Mr. President, your committee on rules and order of business were unable during the interval of recess to complete a report, but, knowing the importance of hastening the business as rapidly as possible, and that the Chair would necessarily require some little time for the consideration of the appointments of standing committees, we have concluded to ask permission to make a partial report, whch will be a part of the complete report recommending the appointment of certain standing committees of the convention, and with the leave of the Chair, I will read that report:

Your committee on rules and order of business have had the subject committed to our charge under consideration, and beg leave to submit the following partial report, consisting of the standing committees and their numbers. We shall be prepared to submit a complete report during tomorrow morning's session. The standing committees of the Convention shall consist of the following, and such as have been or may be created by the Convention, and the first named member of every committee shall be its chairman and in his absence or in case he is excused by the Convention, the next named member shall constitute its chairman, and so on, unless the committee in case of the absence of the first named member shall by majority of the members of said committee elect a chairman.

Standing Committees

Judiciary, consisting of thirteen members.

Executive and administrative, consisting of seven members.

Legislative, consisting of seven members.

Bill of Rights, consisting of five members.

Election and right of suffrage, consisting of seven members.

Name, boundaries and seat of government of state, consisting of seven members.

Federal relations, consisting of five members.

Education and school lands, consisting of nine members.

Municipal corporations, consisting of five members.

Corporations other than banking and municipal, consisting of thirteen members.

County and township organization, consisting of seven members.

State, county and municipal indebtedness, consisting of nine members.

Revenue and finance, consisting of seven members.

Public accounts and expenditures, consisting of seven members.

State institutions and public buildings, including penitentiaries and other reformatory institutions, consisting of nine members.

Congressional and Legislative apportionment, consisting of thirteen members.

Mines, mining and water rights, consisting of seven members.

Roads, bridges and other internal improvements, consisting of seven members.

Exemptions, real and personal, consisting of nine members.

Rights of married women, consisting of seven members.

Military affairs, consisting of seven members.

Banking and currency, consisting of seven members.

Amendments and revision of the Constitution, consisting of seven members.

Printing, consisting of five members.

Seal of State, Coat of Arms and Design of same, consisting of seven members.

Schedule, consisting of thirteen members.

Miscellaneous subjects, consisting of seven members.

Compensation of Public Officers, consisting of seven members.

Arrangement and phraseology of the Constitution, consisting of nine members.

Manufacture and Agriculture, consisting of nine members.

Expenses of this Convention, consisting of five members.
Engrossment and Enrollment, consisting of five members.
Preamble, consisting of seven members.

All of which we respectfully submit. By the adoption, either in its present form or an amended form, of the partially completed report of the committee, the chair will have the extra opportunity which is afforded by the adjournment till tomorrow morning for the appointing of the list of committees. Of course the Chair knows and everybody knows that it is impossible to proceed with the business of the Convention at all until these committees are appointed. We have, I may say, taken into consideration in a general way, and shall take the liberty of reporting as a part of the rules and orders, what we regard as necessary in the way of employees, and among them will be two messengers, but I see that we have not got them here as yet.

By the President: What disposition will the Convention make of the report which is now before the Convention?

Mr. McCallum: I move that the report of the committee as made be accepted and adopted for the government of this Convention.

The motion, being duly seconded, was put by the chair, and declared to be the sense of the Convention.

Mr. Owen: I suppose this is with the understanding that the committee is continued to make a further report tomorrow morning.

By the President: I apprehend that it should be one of those committees that continue throughout the session of the Convention.

Mr. Moody: The report so provided. It says, "In addition to the committee already appointed and such as may be appointed in the morning." Therefore those should be standing committees.

Mr. McCallum: Mr. President, I would like to inquire if the committee will reserve the right to nominate such stenographers as they may deem proper, and if so, how many?

By the President: I presume their report in the morning will indicate to the Convention their conclusions upon that question. Is there any further business before the Convention?

Mr. Lowthian: I move that we adjourn until tomorrow morning at nine o'clock.

Mr. Moody: I think that each member of this Convention ought to go forward and sign the roll I have not as yet had the opportunity to do so; perhaps the other members have, however. This should be done before the Convention adjourns. I ask the gentleman to withdraw his motion to adjourn.

Mr. Lowthian: I withdraw the motion.

Mr Moody: I move now that each member go forward as the roll is called and sign the oath of office, because that becomes an essential part of the record.

By the President: Those members of the Convention who have not signed the roll now have an opportunity to do so.

The roll was here signed by the delegates present.

By the President: Is there any further business before the Convention this evening?

Mr. Westfall: Mr. President, I move we now adjourn until nine o'clock tomorrow morning.

The motion was seconded, put and declared carried.

ADJOURNED.

SECOND DAY

Wednesday, September 9th.

Convention called to order at 9:10 a. m

Prayer, by Rev. A. Jamison, of Sioux Falls.

Our Father, who art in Heaven, Hallowed be Thy name; Thy kingdom come, Thy will be done on earth as it is in Heaven. Again, our Heavenly Father, we come to Thee, to invoke Thy blessing upon us and upon the work in which our hands are engaged. A new day has come; we are confronted by new duties and responsibilities for which we need special grace and help from God. But we thank Thee, our Father, that Thou hast promised such grace and help to all who seek it. We therefore come to Thee in the name of Thy dear Son to implore Thy blessing upon us, and the special grace and help we need to fit us for this day's duties. And we are thankful for the peace and harmony which has characterized this coming together thus far, and we pray, O God, that Thou wilt continue to guide us in all the labors, duties and responsibilities connected with this Convention.

We feel thankful, Father, that this Convention is composed of men who fear God and who desire the best interests of the people. O Lord, we pray that they may be so guided in all their responsibilities, in all their duties, that Thy glory may be constantly before their minds, and may they seek the best interests of the people now and to come.

Command Thy blessing, we pray Thee, to rest not only upon the Convention, but upon the nation at large. Bless, we pray Thee, all who occupy positions of trust. May they be men who fear God, hate iniquity, and grant that all who have the execution of our laws may be men of clean hands and pure hearts. And may they administer the affairs of this nation so that God may be honored and the best interests of the people secured. Forgive us our sins and guide us by Thy counsel, and ultimately save us through Christ. Amen.

Mr. McCallum: If we are acting under the rules of two years ago I would inquire if rule number seven isn't being violated over in that corner (indicating the corner occupied by the representatives of the press, one of whom was smoking).

By the President: The rules of two years ago have not been adopted. We have adopted no rules.

Mr. Moody: The committee on rules and order of business is ready to report as soon as the Convention is in order, so that it may be done.

By the President: The Convention will now listen to the report of the committee on rules and order of business.

Mr. Moody: Mr. President, your committee on rules and order of business report. I will read the report myself, with the permission of the Chair.

Rules and Order of Business

RULE 1.

A majority of the members of the Convention, who shall have qualified and not been excused, by order of the Convention, shall constitute a quorum, but a smaller number may adjourn from day to day.

RULE 2.

The Convention shall keep a journal of its proceedings, which shall be preserved, and upon the adjournment, deposited with the President of this Convention, to be by him filed with the Secretary of State, or other keeper of the archives of the State of Dakota, as soon as such officer shall be elected and qualified, and to be thereafter disposed of as provided by law. And such proceedings shall be published in pamphlet form for general distribution.

RULE 3.

Ten members shall be sufficient to demand the yeas and nays on any question, and when so demanded they shall be entered on the journal.

RULE 4.

Any member shall have liberty to have entered upon the journal his protest and dissent against any act or resolution, when such protest and dissent shall be made in writing in respectful and brief language, and filed with the secretary, and such entry shall be made without debate.

RULE 5.

The Convention may, with the concurrence of two-thirds of all the members present, expel a member, and the reasons therefor shall be entered on the journal.

RULE 6.

The Sergeant-at-Arms and doorkeeper shall not permit any person not a member or officer or employe of this Convention to pass inside the railing at any time during the session, except reporters of the press, duly assigned as such by the President of the Convention, and such other persons as shall be invited therein by the President of the Convention.

RULE 7.

No smoking shall be allowed inside the hall during the sessions of the Convention, and no person shall be permitted to manifest any signs of approbation or disapprobation, either on the floor or in the lobby.

RULE 8.

The President shall take the chair at the hour to which the Convention shall have adjourned, shall immediately call the Convention to order and on the appearance of a quorum shall cause the journal of the preceding day to be read, unless such reading shall be dispensed with by order of the Convention. He shall preserve order and decorum, shall decide questions of order, subject to an appeal to the Convention by any one member; on which appeal no member shall speak more than twice unless by leave of the Convention.

RULE 9.

Except where the yeas and nays are demanded, as in these rules provided, all questions shall be determined either by putting them in the ordinary mode, or in case the President doubts, or a division is called for, by rising from the seats, unless count by tellers is ordered.

RULE 10.

The President shall examine and correct the journal before it is read; he shall have the general direction and control of the hall, and may name any member to perform the duties of the chair, but such substitution can not extend beyond three days, and such substitute, during such time, shall be vested with all the powers of the President.

RULE 11.

All committees shall be appointed by the President unless otherwise ordered by the Convention.

RULE 12.

If any member, in speaking or otherwise, shall transgress the rules of the Convention, the President shall, or any member may, call him to order, in which case the member so called to order shall immediately sit down, unless permitted to explain; and if appeal is taken to the Convention, a decision shall be had without debate; but this rule shall not apply to the point of order raised under provisions of Rule 8.

RULE 13.

Every member who shall be within the bar of the Convention when a motion shall be stated from the chair, shall vote thereon, unless he shall be excused. Any member desiring to be excused from voting shall make his request before the roll call shall be commenced; he may then state concisely, without argument, his reasons for asking to be excused, and the question of excusing shall be taken without debate.

RULE 14.

Every motion shall be reduced to writing, if the President or any member requests it.

RULE 15.

After a motion is stated by the President, or read by the Secretary, it shall be deemed in the possession of the Convention, but may be withdrawn at any time before decision or amendments with the consent of the Convention.

RULE 16.

When a question is under debate, no motion shall be received but to adjourn, call the house, lay on the table, the previous question, to postpone indefinitely, to postpone to a day certain, to commit or amend; which several motions shall have precedence in the order in this rule stated.

RULE 17.

A motion to adjourn shall always be in order, and be decided, as well as the motion to lay on the table, without debate.

RULE 18.

No motion to postpone to a day certain, or indefinitely, or to commit, being decided in the negative, shall be again allowed on the same day or at the same stage of the proposition.

RULE 19.

Motion to strike out the proposition shall have precedence of a motion to amend, and, if carried, shall be equivalent to its rejection.

RULE 20.

When a blank is to be filled, and different sums, times or quantities are proposed, the question shall first be put on the largest sum or quantity and the longest time.

RULE 21.

If the question in debate contains several propositions, any member may have the same divided, and on a motion to strike out and insert, it shall be in order to move for a division of the question, and the rejection of a motion to strike out and insert one proposition shall not prevent a motion to strike out and insert a different proposition, nor prevent a subsequent motion to strike out only, nor shall the rejection of a motion to strike out only, prevent a subsequent motion to strike out and insert.

RULE 22.

When a question has been once put, and decided, it shall be in order for a member voting with the majority to move for a reconsideration thereof on the same day or during the two succeeding business days, but not afterwards. Such motion shall take precedence of all other questions except a motion to adjourn.

RULE 23.

When motions are made for a reference of the same subject to a select committee and to a standing committee, the question of reference to a standing committee shall be put first.

RULE 24.

A motion to commit and a motion to postpone indefinitely or to a day certain, until decided, shall preclude all amendments on the main question.

RULE 25.

No motion or proposition on a subject different from that under consideration shall be admitted under color of amendment.

RULE 26.

A motion to lay an amendment on the table being sustained shall not have the effect to carry to the table any proposition except what is contained in the amendment.

RULE 27.

When, on moving the previous question, the Convention shall decide in the negative, the main question shall be considered as still under debate.

RULE 28.

The effect of the main question being ordered shall put an end to all debate, and bring the Convention to a direct vote; first, on all amendments reported or pending, the last amendment moved being the first considered, and then on the main question.

RULE 30.

After the motion for the previous question has prevailed, it shall not be in order to move a call of the Convention prior to a decision of the main question.

RULE 31.

No call of the Convention shall be in order except upon the demand of one-third of all the members present at the time the call is demanded.

RULE 32.

All motions and resolutions not pertaining to the current business of the Convention shall be upon being read, referred by the President to the appropriate committee without debate.

RULE 33.

The unfinished business on which the Convention was engaged at its last adjournment, shall at the next meeting have precedence of all other business except as provided in the order of business.

RULE 34.

The hours of meeting shall be 10 o'clock A. M., except Sundays, until otherwise ordered.

RULE 35.

ORDER OF BUSINESS

1. Reading of the Journal.
2. Communications and presentation of petitions.
3. Unfinished business of the previous day.
4. Reports from standing committees.
5. Reports from select committees.
6. Presentation of resolutions and propositions relating to the constitution.
7. Consideration of reports of standing committees.
8. Consideration of reports of special committees.

RULE 36.

It shall be the duty of the Secretary to keep a journal, in which he shall record all the proceedings of the Convention, and to do and perform such other acts appertaining to his office as may be required of him by the Convention or its presiding officer.

RULE 37.

It shall be the duty of the assistant secretary to assist the secretary of the Convention, and to perform such acts as may be required of him by such secretary of the Convention or presiding officer.

RULE 38.

It shall be the duty of the Sergeant-at-Arms to attend the Convention during its sittings and to execute the commands of the Convention from time to time.

RULE 39.

All the employees of this Convention except the stenographers and enrolling clerk shall be subject to the immediate direction and control of the Sergeant-at-Arms, subject to the general direction of the President.

RULE 40.

No rule of the Convention shall be altered, suspended or rescinded without the vote of two-thirds of the members present.

RULE 41.

The rules of parliamentary practice comprised in Jefferson's manual shall govern the Convention in all cases in which they are applicable and not inconsistent with the standing rules and orders of the Convention.

RULE 42.

The standing committees of the Convention shall consist of the following, and such as have been or may be created by the Convention, and the first named member of every committee shall be its chairman, and in his absence, or in case he is excused by the Convenion the next named member shall constitute its chairman, and so on, unless the committee in case of the absence of the first named member shall, by majority of the members of such committee, elect a chairman.

STANDING COMMITTEES.

Judiciary, consisting of thirteen members.
Executive and administrative, consisting of seven members.

Legislative, consisting of seven members.

Bill of Rights, consisting of five members.

Elections and right of suffrage, consisting of seven members.

Name, boundaries and seat of government of state, consisting of seven members.

Federal relations, consisting of five members.

Education and school lands, consisting of nine members.

Municipal corporations, consisting of five members.

Corporations other than banking or municipal, consisting of thirteen members.

County and township organizations, consisting of seven members.

State, county and municipal indebtedness, consisting of nine members.

Revenue and finance, consisting of seven members.

Public accounts and expenditures, consisting of seven members.

State institutions and public buildings, including penitentiaries and other reformatory institutions, consisting of nine members.

Congressional and Legislative apportionment, consisting of thirteen members.

Mines, mining and water rights, consisting of seven members.

Roads, bridges, and other internal improvements, consisting of seven members.

Exemptions, real and personal, consisting of nine members.

Rights of married women, consisting of seven members.

Military affairs, consisting of seven members.

Banking and currency, consisting of seven members.

Amendments and revision of the constitution, consisting of seven members.

Printing, consisting of five members.

Seal of State, Coat of Arms and design of same, consisting of seven members.

Schedule, consisting of thirteen members.

Miscellaneous subjects, consisting of seven members.

Compensation of public officers, consisting of seven members.

Arrangement and phraseology of the constitution, consisting of nine members.

Manufactures and agriculture, consisting of nine members.

On engrossment and enrollment, consisting of five members.

On expenses and disbursements of this Convention, consisting of five members.

On preamble, consisting of seven members.

RULE 43

It shall be the duty of the engrossing and enrolling committee to supervise the transcript to be furnished to them by the stenographers, and all matter for publication.

RULE 44.

There shall be employed by this Convention a Sergeant-at-Arms, at a salary of three dollars a day.

A door-keeper at a salary of $2.50 a day.

A janitor at a salary of $2.50 a day.

Four stenographers, at the same per diem and compensation for transcript as is provided by law for court stenographers, provided that but one transcript shall be paid for.

Two messengers at a salary of $2.00 per day each.

One engrossing and enrolling clerk at a salary of $4.00 per day.

And there shall be allowed and paid to the Secretary and Assistant Secretary of this Convention $5.00 per day each.

RULE 45.

The employees provided for shall be appointed from time to time by the President of this Convention and be subject to removal by him unless otherwise ordered by the Convention.

RULE 46.

The committee on expenses of this Convention shall have power to provide for all necessary stationery, printing and other incidental expenses, and all bills therefor shall be presented to and audited by said committee and approved by the President of this Convention and then submitted to the Convention for final action.

Mr. Haines: I move that the further and complete report of the committee on rules be adopted.

It was so ordered.

Mr. Dow: I move that the Secretary be instructed to procure two hundred printed copies of this report for the use of the Convention.

It was moved to amend by making the number 500 instead of 200.

Mr. Campbell: I would ask the gentleman to add an amendment. That a list of the standing committees be also furnished with the rules.

Mr. Dow: I accept the amendment.

The amendment was duly seconded.

By the President: The question before the Convention is that the Secretary be required to procure 500 copies of the rules and also a list of the standing committees for the use of the Convention.

The motion was put to vote and declared carried.

Mr. Taylor: I would like to ask what is the object of 500?

Mr. Campbell: Five hundred will cost but little more than two hundred; and they are liable to be lost, and, besides, they may be useful for reference.

By the President: I have been unable to make out a list of the committees this morning. I hope to be able to announce to the Convention at this afternoon's session a full list of all the committees. Those that I have been able to complete will now be announced to the Convention.

The Secretary hereupon read the following list of standing committees:

Judiciary–13—

Moody, of Lawrence.
Kellam, of Brule.
Campbell, of Yankton.
Brookings, of Minnehaha.
Dollard, of Bon Homme.
Lichtenwaller, of Hughes.
McCallum, of Beadle.
Taylor, of Lincoln.
Corson, of Lawrence.
Haines, of Turner.
Owen, of Kingsbury.
Wright, of Brookings.
Fowler, of Pennington.

Executive and Administrative–7—

Kellam, of Brule.
Frank, of Lawrence.
Ryan, of Aurora.
Walton, of Brookings.
Mason, of Brown.
Grant, of Butte.
Gault, of McPherson.

Legislative–7—

Kanouse, of Sanborn.
Jones, of Miner.
Snow, of Bon Homme
Hanson, of Yankton.
Lowthian, of Grant.

Maynard, of Brule.
Grant, of Butte.

Education and School Lands–9—

Moore, of Brule.
Updike, of Codington.
Phillips, of Lawrence.
Miller, of Hughes.
Ward, of Yankton.
Owen, of Kingsbury.
McLeod, of Brown.
Myres, of Spink.
Haines, of Turner.

Congressional and Legislative Apportionment–13—

Dollard, of Bon Homme.
Weeden, of Lawrence.
Wright, of Brookings.
Gregory, of Brule.
Lowe, of Deuel.
Tousley, of Turner.
Fisher, of Spink.
Baker, of Beadle.
Mason, of Brown.
Booth, of Custer.
Lichtenwalner, of Hughes.
Goddard, of Minnehaha.
Schultz, of Clay.

Seal of State, Coat of Arms and Design of Same–7—

Cleland, of Clay.
McCallum, of Beadle.
Miller, of Hughes.
Ward, of Yankton.
Blair, of Union.
Westfall, of Codington.
Gray, of Hanson.

Printing–5—

Neill, of Grant.
Tousley, of Turner.
Gunderson, of Jerauld.
Cranmer, of Edmunds.
Jessup, of Faulk.

Mr. Schultz: I have heard my name mentioned as Schultz of Union county; I am from Clay county.

Campbell of Yankton: I move that the Secretary or the Printing Committee furnish the members with printed roll calls as soon as possible.

By the President: That will be the order unless objection is made.

Mr. Moody: I observe in the list of committees the name of Mr. Ayers, of Lawrence. I regret to say that Mr. Ayers is unable to be here owing to the long distance to come, and his engagements were such, or at least culminated since his election, in such shape that he could not leave. He will be the only delegate absent from Lawrence county. I suggest to the Chair that there will be a vacancy there in that committee; he will not be here to qualify.

I move you that the Secretary of the proper committee be author zed and instructed to have printed for the use of this Convention, two hundred and fifty copies of the constitution adopted by the convention two years ago, for their information; because we will not undertake as we did two years ago to make an original instrument. This country is a hundred odd years old, and we will try to reap the benefit of the experience of those who have gone before us, and perhaps the constitution adopted two years ago may aid and assist the members of this Convention somewhat; at least it is worth the cost of having it before us and in proper form. I move you, Sir, that the proper committee be instructed to procure these copies as soon as possible.

Which motion was duly seconded, put to vote and unanimously carried.

Mr. Westfall, of Codington, was called by the President to preside, at this juncture of the proceedings.

Mr. Brookings: I move we take a recess until four o'clock p. m.

Mr. Fowler: I move to amend, until half past two o'clock.

Mr. Moody: I wish to say that the President of the Convention is making up the committees and he requested me to state, if some one else did not, that when the Convention took a recess, that it should be until four o'clock. Four o'clock is early enough.

Mr. Fowler: I accept the suggestion.

Question of adjournment coming before the Convention, upon vote it was declared that the recess be until four o'clock p. m.

Convention called to order at 4:25 p. m.

By the President: In the announcement of the committees this morning, I shall, with the permission of the Convention, make two corrections. One in the committee on apportionment, and one in the committee on Executive and Administrative Affairs. I am also prepared to make the announcement of the other committees. The clerk will read the list.

By the Secretary: The corrections made are, Frank, of Lawrence county, from Executive and Admnistrative to Apportionment, and Weeden, of Lawrence county, from Apportionment to Executive and Administrative.

The following are the balance of the standing committees:

Bill of Rights–5—
Owen, of Kingsbury.
More, of Beadle.
Craig, of Spink.
Gifford, of Minnehaha.
Goddard, of McCook.

Elections and Rights of Suffrage–7—
Westfall, of Codington.
Dow, of Brown.
McCallum, of Beadle.
Ward, of Hughes.
Parker, of Lawrence.
Campbell, of Yankton.
Lansing, of Hand.

Name, Boundaries and Seat of Government of State–7—
Frank, of Lawrence.
Patten, of Miner.
Fisher, of Spink.
Blair, of Union.
Reed, of Sully.
Lowthian, of Grant.
Murphy, of Hanson.

Federal Relations—5—
Fowler, of Pennington.
Ashton, of Roberts.
Andrus, of Hamlin.
Baker, of Beadle.
Bellen, of Hutchinson.

Municipal Corporations—5—
Wright, of Brookings.

Buechler, of Hutchinson.
Murphy, of Hanson.
Tychsen, of Turner.
Beebe, of Minnehaha.

Corporations Other Than Banking or Municipal—13—

Ward, of Hughes.
Brookings, of Minnehaha.
Britton, of Spink.
Hanson, of Yankton.
Jessup, of Faulk.
Lansing, of Hand.
Laybourne, of Brown.
Conniff, of McCook.
Elfes, of Charles Mix.
Ryan, of Aurora.
Gehon, of Lincoln.
Gray, of Hanson.
Gault, of McPherson.

County and Township Organization—7—

Allen, of Turner.
Coffin, of Beadle.
Berdahl, of Minnehaha.
Brown, of Buffalo.
Buechler, of Hutchinson.
Churchill, of Spink.
Crose, of Hyde.

State, County and Mnuicipal Indebtedness—9—

Corson, of Lawrence.
Tychsen, of Turner.
Andrus, of Hamlin.
Baker, of Beadle.
Beebe, of Minnehaha.
Bellon, of Hutchinson.
Church ll, of Spink.
Cranmer, of Edmunds.
Dow, of Brown.

Revenue and F nance—7—

Reed, of Sully.
Allen, of Turner.
Churchill, of Spink.
Crose, of Hyde.
Goddard, of Minnehaha.
Potter, of Walworth.
White, of Brookings.

Public Accounts and Expenditures—7—
Williams, of Hand.
Huntley, of Jerauld.
Kendall, of Union.
Laybourne, of Brown.
Maynard, of Brule.
Oakes, of Minnehaha.
Ryan, of Aurora.

State Institutions, and Public Buildings, Including Penitentiaries and Other Reformatory Institutions—9—
Fisher, of Spink.
McLeod, of Brown.
Walton, of Brookings.
Ward, of Yankton.
Oakes, of Minnehaha.
Cleland, of Clay.
Fellows, of Aurora.
Wright, of Lake.
Kanouse, of Sanborn.

Mines, Mining and Water Rights—7—
Booth, of Custer.
Hanson, of Yankton.
Gifford, of Minnehaha.
Frank, of Lawrence.
Grant, of Butte.
Fowler, of Pennnigton.
Phillips, of Lawrence.

Roads, Bridges and Other Internal Improvements—7—
Blair, of Union.
Craig, of Spink.
Weeden, of Lawrence.
Pendleton, of Sully.
Patten, of Miner.
Weatherwax, of Beadle.
Crose, of Hyde.

Exemptions, Real and Personal—9—
Bellon, of Hutchinson.
Allen, of Turner.
Craig, of Spink.
Dahl, of Union.
Elfes, of Charles Mix.
Gehon, of Lincoln.
Gray, of Hanson.

Gunderson, of Jerauld.
Wright, of Lake.

Rights of Married Women—7—
Coffin, of Beadle.
Gault, of McPherson.
Fellows, of Aurora.
Westfall, of Codington.
Haines, of Turner.
Goddard, of McCook.
Cranmer, of Edmunds.

Military Affairs—7—
Taylor, of Lincoln.
Weatherwax, of Beadle.
Tousley, of Turner.
Huntley, of Jerauld.
Jones, of Miner.
Sheets, of Kingsbury.
Buechler, of Hutchinson.

Banking and Currency—7—
Beebe, of Minnehaha.
Jessup, of Faulk.
Andrus, of Hamlin.
Goddard, of McCook.
Stone, of Potter.
Cranmer, of Edmunds.
Alexander, of Campbell.

Amendments and Revision of the Constitution—7—
Dow, of Brown.
Corson, of Lawrence.
Edgerton, of Roberts.
Britton, of Spink.
Reed, of Sully.
Stone, of Potter.
Gifford, of Minnehaha.

Schedule—13—
Campbell, of Yankton.
Kellam, of Brule.
Dollard, of Bon Homme.
Ward, of Hughes.
Booth, of Custer.
Kanouse, of Sanborn.
Neal, of Grant.
Lansing, of Hand.

Patten, of Miner.
Coffin, of Beadle.
Huntley, of Jerauld.
Conniff, of McCook.
McGrath, of Lake.

Miscellaneous Subjects—7—
Alexander, of Campbell.
White, of Brookings.
Mason, of Brown.
Brown, of Buffalo.
Elfes, of Charles Mix.
Schultz, of Clay.
Gunderson, of Jerauld.

Compensation of Public Officers—7—
Brookings, of Minnehaha.
Snow, of Bon Homme.
Laybourne, of Brown.
Phillips, of Lawrence.
Taylor, of Lincoln.
Cleland, of Clay.
Lowthian, of Grant.

Arrangement and Phraseology of the Constitution—9—
Ward, of Yankton.
Moody, of Lawrence.
More, of Beadle.
Lichtenwallner, of Hughes.
Meyers, of Spink.
Neal, of Grant.
Walton, of Brookings.
Williams, of Hand.
Wright, of Lake.

Manufactures and Agriculture—9—
Meyers, of Spink.
Brown, of Buffalo.
Conniff, of McCook.
Stone, of Potter.
Gregory, of Brule.
Kendall, of Union.
Berdahl, of Minnehaha.
Pendleton, of Sully.
Snow, of Deuel.

Engrossment and Enrollment—5—
Potter, of Walworth.

Pendleton, of Sully.
Sheets, of Kingsbury.
Dahl, of Union.
McGrath, of Lake.

Expenses and Disbursements of this Convention—5—
Fellows, of Aurora.
Murphy, of Hanson.
Snow, of Bon Homme.
Weatherwax, of Beadle.
Gregory, of Brule.

Preamble—5—
Updyke, of Codington.
Parker, of Lawrence.
Berdahl, of Minnehaha.
Williams, of Hand.
Britton, of Spink.

Mr. Owen: I have a resolution to present by certain people of Kingsbury county, for which there seems to be no appropriate committee provided, and I now make this motion. I move that a committee of nine be appointed by the Chair, to which such subjects shall be referred as prohibition, and all resolutions and petitions relating thereto. The people of South Dakota will present petitions and resolutions for prohibition, and we desire to have this subject referred to a committee. Of course, we have a committee on miscellaneous subjects, but of course those gentlemen, I don't know.

The motion was duly seconded.

By the President: It is suggested by the stenographers that members of the Convention give their names, and county, when making a motion or getting up to speak, so that they may be properly recognized.

The question before the Convention is that a committee of nine be appointed by the chair, to which shall be referred the subject of prohibition, and all petitions and resolutions relating thereto.

The motion prevailed.

Mr. Owen: The resolution contains but about seven or eight lines, and I will read it. It is presented by the people of Kingsbury county.

Resolution

No person or corporation shall manufacture for sale any intoxicating liquor or sell or keep for sale such liquors as a beverage. The Legislature shall by law prescribe regulations for the enforcement of the provisions of this section, and provide suitable penalties for the violation thereof.

Mr. Campbell: Mr. President, I have a resolution which I would ask to be sent up to the clerk's desk and read.

Resolution

Resolved, that the President of this Convention be requested and authorized to request of the Governor a copy of the results of the census of the Territory, so far as the same has been ascertained.

By the President: I suppose that is only intended to apply to the enumeration of inhabitants, and not the complete details of the census?

Mr. Campbell: Yes, sir; that is right.

The resolution was seconded and adopted.

The President announced the appointment of additional employees, including messengers, etc.

By the President: I have to announce to the Convention that in accordance with the report of the committee, adopted by the Convention this morning, with reference to the appointing of officers—Mr. Sawyer, of Lincoln county, as doorkeeper, and Willie Bouleant and Charles Brisby as messengers.

Mr. Campbell: I ask to have a resolution read by the clerk.

By the President: The clerk will read the resolution.

Resolution

Resolved, that a committee on printing be instructed to see about laying upon the tables of the members, each morning, a printed journal of the proceedings of the day before.

(Filed with Secretary.)

By the President: The resolution offered by Judge Campbell is this: That a committee on printing be provided, and the Secretary shall see that there be laid upon the tables of the members each morning the printed proceedings of the day previous.

Mr. Taylor: Before that resolution is passed upon I would like to state that I have been informed, from a reliable source, that it would be utterly impossible to do so.

Mr. Campbell: I think it was done at the last convention.

By the President: I suppose the resolution properly goes to the committee on printing, under the rules.

Mr. Campbell: I think it is a matter of current business, and that it is one of the rules; it seems to be so, to be subject to the current business. I think it is very important that we have the proceedings as early as possible the next day, that we may know what has been done.

By the President: I am satisfied myself, that whether the rules provide that or not it should go to the committee on printing, and I am further confirmed in the opinion by what I have just heard, and unless objection is offered, refer it to the committee on printing.

Mr. Moody: Before the Chair disposes of that question, it occurs to me, with due respect to the opinion expressed by the President, that some consideration should be given it by the Convention, for this reason: The current business of the Convention, of course, must be conducted under the instruction of a committee, which pertains to subjects incorporated in the constitution or which relates to it, this, of course, would go to its appropriate committee, and so would such motions and petitions which relate to such matters, directly or indirectly, but as to the transaction of the business of the Convention, merely, to be subject to the instruction of a committee, it strikes me, Mr. President, that must be passed upon by the Convention. As a doubt is raised as to whether it is possible to do all that the resolution demands it might be well to modify the resolution in this particular in extending the instructions of the committee to ascertain if it is practicable to present, or lay upon the tables of the members, each morning, the proceedings of the day previous, or such number of them as that committee may deem advisable, or they may be able to procure. It is, of course, a sort of synopsis of the day's doings, and unless it is too expensive, I see no difficulty in proposing something of the kind, and presume it could be done by the printers. I now move an amendment to the resolution.

By the President: I said that I should send it to the committee, as I thought it came under the rule, unless there was an objection. I think I understand now that the gentleman from Lawrence objects to it being sent to the committee.

Mr. Moody: Yes; I will object to it, with greatest respect to the Chair. I have no right to do that, but I will ask to offer an amendment to the motion as follows: That the printing committee be instructed to ascertain and report whether it is practicable to submit and lay upon the table each morning a printed report of the proceedings of the day previous, and if so, what will be the possible cost.

Mr. Miller: I for one would be very much pleased to have the proceedings of the day before on our table every morning, and every gentleman on this floor who knows anything about legislative bodies knows that the proceedings of the previous day is every day placed on the desk of each member; and what is done in one case can be done in another. I don't believe the printers in Sioux Falls will acknowledge that the printers of Bismarck can do what they can not do, and so I hope when it goes to the committee, they will find they can do this.

Mr. Campbell: I understand that the question is open for amendment.

By the President: I understand that it is.

Mr. Campbell: I accept the amendment and ask that we consider it. I think we could not proceed in the consideration of business without knowing in some other way than the clerk's reading it, what has been done, and I certainly have never seen any legislative body where it was not done.

Mr. Owen: I ask for information whether the resolution that is now before us is to lay upon our tables the records of each day or the debates.

By the President: Merely the records.

Mr. Taylor: I think I can agree with the gentleman from Lawrence so far as that proposition is concerned, but I understand that the necessary type or the compositors are not in the city, and it would be impossible. It was not done at the last convention The gentleman is mistaken. We had it at the last convention from the newspapers, and where it has been done, there has been special provision made for it. Therefore, I am in favor of the amendment that the committee investigate it, and I am satisfied they will find it can not be done.

By the President: Are the gentlemen ready for the question?

As many as are of the opinion that the resolution be adopted say Aye. Those of a contrary opinion, No. The Ayes have it.

By the President: Is there any further business before the Convention today?

Mr. McCallum: Mr. President, I would like to inquire if the stenographers have been provided for?

By the President: I have not had much time since we took our recess this morning.

Mr. Moody: I think it important for the rapid conduct of the business of this Convention that the committees shall be furnished with committee rooms. It is impossible for committees to properly perform their duties if they are meeting in the corridors of hotels or crowded bed-rooms or something of that kind. If we have the right to dignity of statehood we have a right to expend some of the appropriation that has been made for the expenses of this Convention, in a judicious way, and I think that some expenditure for committee room is as economical an expenditure as can be made. Now I move you, Sir, that the committee on expenses of this Convention be instructed to ascertain if four committee rooms can be engaged in this town for the use of committees, and if suitable rooms can be obtained they ascertain and report to this Convention tomorrow morning the cost of the rent of the same during the Convention. I will say that the judiciary committee has been tendered the exclusive use of a room in the block opposite the Cataract House—a comfortable room—without expense. So that so far as the judiciary committee is concerned it is provided for and I think that four other rooms will be sufficient for the important committees. The judiciary committee will divide the room with other committees. That will make five committee rooms. I say, ascertain the expense and report to the Convention, because I think it wise to keep within the control of the Convention as we go along with these expenses, so that we can be just as economical as we can be and still transact the business.

Mr. Owen: There are some thirty-four or thirty-five committees to be provided for; our work is an important one, a very important one, and I believe that we shall do our work better if we have a larger number of rooms; and I would move as an amendment that eight be inserted instead of four.

Mr. Moody: I have no objection. I am just informed that there are some rooms in the court house that can be obtained; three, I think.

The motion in its amended form was seconded and upon being put to a vote was declared carried.

Mr. Ward of Yankton: Mr. President, I move we adjourn.

The motion was seconded, voted upon and carried.

Mr. Moody: Ten o'clock is the hour fixed by the rules.

ADJOURNED.

THIRD DAY

Thursday, Sept. 10, 1885.

Session opened at 10:10 o'clock, with prayer by the Rev. A. Jamison, as follows:

Prayer

Almighty, and Eternal Father: In Thee we live and move and have our being. From Thee comes every good and every perfect gift. We draw near to Thee at this hour in the name of the Lord Jesus Christ, our righteousness.

We pray that as we come we may be divinely directed; graciously guide us by Thy blessed Spirit.

We thank Thee, our Heavenly Father, for preservation of life, for all the blessings Thou art daily conferring upon us. As we come to Thee to renew the labors of this convention we pray that Thy presence and blessing may go with us and as we pass through the duties and labors of the day may we have the assurance in our hearts that God is well pleased with us; that our acts tend to His glory, to the advancement of all that is good.

We pray, Heavenly Father, that these men who come here charged with these important trusts, may have the special help and guidance of Thy Spirit, and grant that their work may be so ordered that Thy smile and Thine approval may rest upon them, and upon their labors.

We pray, Father, that Thou wilt bless not only this convention; we pray that Thou wilt bless the Governor of this Territory, and all the officers, all the Judges, and all who are occupying positions of trust.

Let Thy blessing rest upon the entire nation from the President down through all the departments of government. May they receive Thy blessing, and may they ever perform the important duties devolving upon them so that all the affairs of the nation may be guided according to Divine will and have Thine approva continually.

Hear us in our prayer; guide us, and keep us for Jesus' sake. AMEN.

By the President: The Secretary will read the minutes of the journal of yesterday. (The same was read by Secretary.)

Mr. Campbell: The motion to amend the motion concerning publication of the rules, and order of business, was made by Judge Moody.

By the President: There being no further corrections, the journal is approved.

By the President: I announce the following stenographers, as reporters of this Convention:

T. G. Brown, of Minnehaha; Ivan W. Goodner, of Beadle; E. A. Maglone, of Yankton; and Mrs. J. D. Washburne, of Yankton.

By the President: I announce the following special committee on Prohibition:

Owen, of Kingsbury; Goddard, of Minnehaha; More, of Beadle; Jessup, of Faulk; Walton, of Brookings; Dow, of Brown; Lichtenwallner, of Hughes; Phillips, of Lawrence; Gault, of McPherson.

Mr. Neill: Mr. President, if it is in order, your committee on printing have a report to make.

Mr. President, your committee on printing, according to yesterday's instructions, have investigated the practicability and probable cost of printing the proceedings of this body daily, and find that it can be done at a probable cost of $8.00 per day on a basis of 250 copies. In addition to this it will be necessary to incur the expense of a transcribing clerk.

Respectfully submitted,

Henry Neill, Chairman.

By the President: The report is before the Convention.

Mr. Neill: Taking the average words in a day's work, and from that computing by a printer's estimate, which I need not explain here, we consider that the cost will amount to probably $8 per day. It may be more; it may be less. It could be considerably less than that if it was not necessary to print all the filed reports. And it may be necessary to print all the filed reports. I understand that the committee can make no recommendations, but the sentiment of the committee is that a number of copies of the proceedings be procured.

Mr. Taylor: The report of the committee is to procure a number of copies of the proceedings each day, and I have a resolution to offer. I understand or understood this morning what the probable cost is, and that that was merely a rough guess. And now the resolution that I propose to offer contemplates the furnishing of each member of this Convention and officers a copy of the previous day's proceedings, which would probably cost not to exceed $100 for the entire session. That is, as I figure it, it would amount to $2.50 or $3.00 per day. And I believe that the proprietors of the papers—select the two papers, without partiality—would print the proceedings. Therefore, I offer the following resolution, and move its adoption.

Resolution

Resolved, That the committee on printing be and hereby are instructed to make a contract with each of the two daily papers of Sioux Falls, publishing the daily proceedings of this Convention, to provide each member and officer of this Convention with one copy of each of said newspapers daily, to be delivered at the desk of each member and officer each morning during the session.

Mr. Campbell: Mr. President, I raise this point of order, that the question before us is the report and the recommendation of the committee to whom we referred the matter of the printing of the proceedings. I don't know of any reason why we should give the matter to the daily newspapers. Therefore, I hope that this resolution will be ruled out of order, as pertaining to go before this house.

By the President: I understand from the reading of this report that Mr. Neill made no recommendation. Was I correct, Mr. Neill?

Mr. Neill: I did not understood that we were to make any recommendations.

A Member: I will move that the report of the committee on printing be adopted.

By the President: There is a question of order raised by Judge Campbell, that this resolution offered by Mr. Taylor, of Lincoln, is not in order, for the reason that the committee on printing have a report before the Convention. I think that point of order is not well taken, and the resolution of Mr. Taylor is properly before the Convention.

Mr. Moody: It strikes me, Sir, that this is a resolution which should go to the committee on printing; it is to purchase newspapers. I make this suggestion, Sir, because I do not think it wise for this Convention as a convention to purchase any newspapers at this city or anywhere else, except such as they purchase with their own funds. The object and purpose of the resolution, the object and purpose of the committee on printing, is to give to this Convention, not what these newspaper reports contain (that which they think are the proceedings), but it is to give to us an authenticated copy of the proceedings in pamphlet form, as they appear upon the Secretary's journal, and this printing to be done under the control of the Secretary of this Convention, and to furnish to each member a copy, duly authenticated. Parts of the reports we get in the newspapers earlier in the morning than we could get otherwise. It strikes me that this is not the question that was referred to the committee on printing yesterday. This is a new proposition, a new question, and is in order to commit, and the committee on printing shall be instructed to carry out the proposition that was commenced yesterday.

By the President: I think that the question of order raised by the gentleman from Lawrence is the correct one.

Mr. Brookings: In order to dispose of this matter, the resolution offered by Mr. Taylor, I move that it be submitted to the committee on printing.

By the President: If there is no objection it will be submitted to the committee on printing. The resolution is before the committee.

Mr. Fisher: As I understand it, it refers exactly to the same matter that the committee were appointed to investigate, and have reported upon. I think it can be done at a much cheaper rate than by the newspapers.

Mr. Meyers: I rise to a point of order.

By the President: The order of business is that established by the rules adopted yesterday. The order of business we are now upon is communications and presentation of petitions. Are there any communications and petitions to be presented to the Convention? If not, we will proceed to the next order of business.

Mr. Moody: I move that the committee on printing be instructed to procure printed copies of the records for the daily use of the members

By the President: Will the gentleman from Lawrence reduce it to writing?

Mr. Moody: Major Kellum has the resolution in writing and intended to present it. I yield the floor to him.

Resolution

Resolved, That the committee on printing be directed to arrange for the printing of two hundred and fifty copies of the daily proceedings of this Convention, and that the Sergeant-at-Arms be directed to distribute the same each morning by laying the same upon the tables of the members.

Motion made to lay resolution on the table, which did not prevail. Motion made that it be adopted; which carried.

Mr. Owens: I want to ask for information, if the committee on printing, in this resolution, has not the right to procure authenticated copies of the reports of this body, from the newspapers; and if they can do it at a less cost, I think the matter of economy should be considered.

Mr. Neill: The committee took that matter into consideration, and conferred with the newspaper men upon that point. They cannot do it, they say so emphatically.

Mr. Tousley: I was talking with one of the proprietors of a daily, here, who said that he could get before the Convention, at ten o'clock every morning, an extra edition of his paper containing the proceedings of the previous day, verbatim, providing there could be a supervising clerk of this Convention to supervise it, and see that it was correct, at eight ($8.00) dollars a day; probably it could be reduced at two hundred copies a day.

Mr. Baker: I think the investigation of the committee on printing shows that the matter averages less than eight ($8.00) dollars a day, and if their bid is less than the estimate made by the newspaper men, the expense would be less to adopt the estimate given by the committee. If we are to pay a man for an authenticated copy, an additional man, it will make a large estimate, larger than that reported by the committee on printing.

Mr. Haines: As I recollect the resolution or the report of the committee, there was something said about an additional clerk. I would like to have the resolution re-read.

Resolution

Your committee on printing, according to yesterday's instructions, have investigated the practicability and probable cost of printing the proceedings of this body, daily, and find that it can be done at a probable cost of $8.00 per day, on a basis of 250 copies. In addition to this it will be necessary to incur the expense of a transcribing clerk.

Mr. Taylor: I don't see why we need 250 copies of the proceedings of this Convention, when every man sits here and knows what goes on. There are some 85 members present here and I cannot understand why the printing offices of this city cannot, through the Secretary of this Convention, and a transcribing clerk, give the proceedings of this Convention to the members. If we adopt the resolution necessitating an additional clerk, that will be some three or four dollars a day, and in addition to this, we don't know what it is going to cost, whether it is to be paid by the job, the piece, or all at once. As far as this Convention is concerned, I have before me the proceedings of the first and second days, clipped from the daily papers, which certainly is intelligible, and if there are any inaccuracies, it could be ascertained from the journal, itself. There certainly should be a spirit of economy manifested in the consideration of this question regarding the expense of three or four dollars additional; therefore I move that the resolution last offered, be laid upon the table, and that this resolution be referred to the committee on printing for them to act upon.

By the President: Gentlemen, reduce the resolution to writing.

Resolution Offered by Mr. Taylor

Resolved; that the committee on printing be hereby instructed to make a contract with each of the daily newspapers of Sioux Falls, publishing the proceedings of this Convention, to furnish each member and officer of this Convention with one copy of each of its newspapers daily, to be delivered at the desk of each member and officer, each morning during the session.

Mr. Brookings: There has been considerable talk about 250 copies and the cost of the same. I am glad to see that there is economy in some portions of the Territory, but I think it is poor economy, in matters of this kind, when we have legislated $20,000—

Mr. Taylor: I rise to a point of order.

By the President: State the point of order.

Mr. Taylor: I have made the motion.

Mr. Brookings: If his motion is before the house the Chair has not stated it.

By the President: He has coupled two distinct propositions together; one proposition is tabled but the other is not tabled and I now ask the gentleman to reduce it to writing.

A Member: I move that the resolution now before the Convention, and last read, be laid upon the table.

Mr. Brookings: I have no desire to discuss that.

Mr. Moody: I ask the framer of that motion to listen until I read one of the rules relating to it. The rule requires that the proceedings shall appear in its journal, and the proceedings shall be published in pamphlet form for general distribution. I had in contemplation further along in the business of the Convention, to call the attention of the Convention to that rule regarding this and other proceedings. We propose in carrying out that motion to exercise economy; I have no objection to the form in which it is done, if the printing committee are able to contract with these newspaper men to print these other records of the proceedings of the Convention, instead of the report made by the reporter, why, then we get both the newspaper and journal proceedings. This is a matter for the committee to look after. The theory is to lay upon the tables of the members daily, printed copies of the proceedings of the Convention.

Mr. Taylor: Does that rule contemplate merely the publication in pamphlet form of the proceedings of the Convention at the conclusion of the convention, or a daily publication?

Mr. Moody: That it should be printed from day to day, as we go along, and I presume the committee can make such an arrangement.

Mr. Taylor: Allow me to inform you that I have the misfortune to have been a printer in my lifetime, and I know that it would require a type foundry to keep up that system.

Mr. Moody: I am not a printer, but I have had some printing done in my lifetime, and as the poor unfortunate members of the profession know, we have printed, and pay for it, our dissertations on legal questions, and I have been informed by printers that they set up one form, of eight pages I think it is, run that off, and then take up other pages.

Mr. Brookings: This gentleman says he is well posted on printing; that there is not type enough in Sioux Falls to do this printing. There are five weekly newspapers here and two daily papers, and the offices are well supplied with type, and when he says that there is not enough type here to do this printing, and that it cannot be done, I think his newspaper experience is not very extensive.

A Member: I move that the previous resolution offered by Major Kellam be laid upon the table.

By the President: It is moved that the resolution offered by Major Kellam be laid upon the table.

Mr. Taylor: Did I understand the Judge that he makes the statement that my motion has been withdrawn?

Mr. McCallum: I second the motion.

Mr. Taylor: My motion has not been withdrawn.

Mr. Brookings: I will withdraw then if we can have a vote on the motion.

By the President: It is moved that the resolution offered by Major Kellam do now lie upon the table. (Lost).

The resolution is now in order. (Adopted).

Mr. Ward of Hughes: I have a resolution which I wish to offer.

By the President: The Secretary will read the resolution.

Secretary (reading): "Resolved, that the several standing committees be instructed to proceed to the work assigned them by the Convention.

The resolution was thereupon seconded and upon being put to a vote declared carried.

Mr. Fellows: Your committee on expenses and disbursements are ready to report.

By the President: We have not reached that yet in the order of business. Is there anything under the head of unfinished business of the previous day? (No response).

By the President: Reports from standing committees.

Mr. Fellows: Your committee on expenses and disbursements, to whom was referred the matter of ascertaining and reporting the expense of eight committee rooms, beg leave to report that three rooms can be had in the court house at an expense not to exceed $15.00, and four rooms in Waple's building at $60.00, and two rooms in the basement of this building provided for in the lease of this hall; all rooms to be heated, lighted and furnished with tables and chairs. Respectfully submitted.

There are nine rooms provided for here; one more than the action of the Convention provided for. It happened this way, that all of the rooms, with the exception of one in the court house, are double rooms, and in order to secure them it became necessary to include the additional room. This Waple's building is on the north of the Commercial House, a rather convenient location for the committees.

The President announced, in their order, that reports from the standing committees, select committees, and committee on presentation of resolutions and propositions relating to the constitution were in order:

Mr. Fellows: I have a resolution to offer on the subject of impeachment and removal from office. I see by the list of committees that this one has been omitted, and it is a very important one. Therefore I give my reason for offering it.

By the President: The Secretary will read the resolution for the information of the Convention.

By the Secretary (reading): "Resolved, That the President of this Convention be further empowered and instructed to appoint a committee consisting of seven members on 'Impeachment and Removal from Office.' "

By the President: Referred to the committee on rules.

By the President: Is there anything further under the head of "Presentation of Resolutions and Propositions relating to the Constitution?"

By the President: Consideration of reports of standing committees.

Mr. Kanouse; Mr. President, I move that the report of the committee on expenses and disbursements of this Convention be accepted and that the committee be authorized and directed to procure the rooms reported by them this morning.

The motion was seconded, and upon vote it was so ordered.

By the President: Consideration of reports of special committees. (No response).

By the President: That finishes the order of business as prescribed by the rules.

Mr. Kanouse: Mr. President, as a question of privilege and convenience I beg to offer the suggestion that the chairman of the several committees, standing and select, be requested to remain after the Convention shall have adjourned and apportion among themselves the times and places for the meetings of their committees.

Mr. Ward of Hughes: I wish to announce that the committee on "Corporations other than Banking and Municipal" will meet at the office of Judge Brookings at four o'clock this afternoon.

Mr. Haines: In the way of unfinished business, I desire to offer and move the adoption of a resolution.

By the President: The Secretary will read the resolution.

By the Secretary (reading): Resolved, That the President of the Convention be directed to appoint a transcribing clerk to aid in preparation of the record of proceedings for daily publication.

By the President: It will go to the committee on expenses of the Convention unless the Convention shall desire to consider it at this time.

Mr. Owen: Since there is necessity for immediate preparation for the publication of the proceedings of this day, I move that this resolution be now adopted.

The motion was seconded and resolution adopted by vote of the Convention.

Mr. Kanouse: I move that we take a recess until two o'clock this afternoon, at which time the several chairmen will have their meeting places arranged for and committee meetings can be called.

Mr. Moody: Is it worth while to meet this afternoon? It strikes me that if these committees get together and go to work the business will be forwarded much better than to meet here, unless some gentleman has a proposition.

Mr. Kanouse: My view of it was simply to accommodate the committees. I don't know where to call our meeting yet; I am utterly without any arrangement either for time or place. Now, I suggest that we meet at two o'clock, if for no other purpose than to agree upon time and place.

Mr. Moody: Then suppose it be merely a meeting of the members of the committees, and not the entire Convention. The judiciary committee, as has already been announced, has a committee room opposite the Cataract House, and we will be prepared for a meeting this afternoon immediately after dinner, say half-past one o'clock or two o'clock, and I presume there are other committees in the same condition, but no matter.

Mr. Brookings: I would ask the gentleman from Sanborn if we could not take a recess now of half an hour—until half-past eleven. We do not want to do anything more this forenoon, and we can in that way talk among ourselves and make the arrangements.

Mr. Kanouse: I see a better way out of it than that—an easier way; and I call the committee on legislation to meet me in the corridor of the Cataract House at two o'clock this afternoon.

Mr. Meyers: I would ask for leave of absence for a few days. It is absolutely necessary for me to go at present or at the beginning of the week, and the committees that I am on will not have any business before them until the last part of the Convention.

By the President: How many days?

Mr. Meyers: A few days.

By the President: If there is no objection, the leave will be granted.

Mr. More: I would like to announce a meeting of the committee on public lands in the parlors of the Yankton delegation at the Commercial House at two o'clock.

Mr. Campbell: I would like to announce a meeting of the committee on "Schedule" at two o'clock at the office of the Commercial House.

Mr. Kellam: It seems to me that these several announcements that are being made by the chairmen of these committees are leading us into the very confusion which Mr. Kanouse's suggestion would have obviated. Now, we have the announcements of four or five chairmen of these committees, and there are as many more waiting to make announcements, and nearly all of these committees are to meet at two o'clock. And it is well known that each one of the members is down on two or three or four of these several committees. Of course men can't very well meet at the Commercial House and the Cataract House and the various offices in town at the same time.

It occurs to me that the suggestion of Mr. Kanouse is a good one; that at a meeting of the several chairmen of these several committees they can arrange for the meeting of their committees at different hours, and different places; and then we can understand among us where and when we will meet. The announcements of the chairmen that have been made here of the meeting of committees, perhaps we all desire to attend all the meetings of all committees upon which we are, and of course we can not do so if they all take place at the same time. I suggest to the chairmen of the various committees that they call a meeting and arrange among themselves for various hours and places of meeting; then we can get the assistance of at least a large part of the members of the committees; and as we are now started out, we won't accomplish that. The gentlemen will attend the meeting of the committee most to their taste or most convenient to the place of meeting. It seems to me some concert of action ought to be determined upon in connection with this matter.

Mr. Ward of Yankton: I move that the Convention now, before leaving the house, proceed to the announcement of different hours and place of meeting of the different committees; that we do it as a convention. Of course there will be considerable confusion but I hope we will not adjourn until we have done it; we can as well spend the hour from now until noon in doring that.

Motion is seconded by Owens, of Kingsbury.

The President: I will announce a recess for thirty minutes.

Upon calling the Convention to order at 11:45 a. m., Mr. Reed, of Sully, announced the following as the result of the labors of the several chairmen of committees, and offered it for adoption by the Convention.

Judiciary, 2 p. m.; room opposite the Cataract.

Executive and Administrative, 3 p. m. at the court house.

Legislative, 3 p. m. in the Stone Block.

Bill of Rights, 7:30 p. m.; No. 84, Cataract House.

Election and Right of Suffrage, 8 p. m.; Stone Block, north of Commercial House.

Name, Boundaries and Seat of Government of State, 4 p. m. in the court house

Education and School Lands, 2 p. m. in Stone Block, north of the Commercial House.

No place or time fixed for the committee on Federal Relations.

Municipal Corporations, 4 p. m. in building north of the Commercial.

Corporations Other Than Banking and Municipal, 4 p. m.; Leader Block.

County and Township Organization, 2 p. m.; this building.

State, County and Municipal Indebtedness, 4 p. m. in the court house.

Revenue and Finance, 3 p. m.; Leader Block.

Public Accounts and Expenditures, 8 p. m.; Stone Block.

State Institutions and Public Buildings, Including Penitentiaries and other Reformatory Institutions, 8 p. m. in the court house.

Congressional and Legislative Apportionment, 5 p. m. in the Stone Block.

Mines, Mining and Water Rights, no appointment made.

Roads, Bridges and other Internal Improvements, 9:30 a. m. in this building.

Exemptions, Real and Personal, 9 a. m. in this building.

There is no appointment made for the committee upon the Rights of Married Women.

Military Affairs, 9 a. m.; Convention Hall.

Committee on Banking and Currency, 9 a. m. in Convention Hall.

Amendments and Revision of the Constitution, 2 p. m. in the Court House.

Printing, after adjournment, in this building.

Seal of State, Coat of Arms and Design of Same, no appointment.

Schedule, 3 p. m. in Stone Block north of Commercial.

Miscellaneous Subjects, 7 p. m.; No. 96, Cataract House.

Compensation of Public Officers, 7 p. m. in Leader Block.

No appointment made for committee on Arrangement and Phraseology of the Constitution.

Nor for Manufactures and Agriculture.

Engrossment and Enrollment, in the Convention Hall, at 9:30 a. m.

Expenses of the Convention, at the court house at call of the Chair.

Committee on Prohibition will announce time and place.

Mr. Taylor: It is suggested in the meeting of the committees that the stenographers should be instructed to serve these various committees as required or needed.

Mr. Dow, of Brown: I move we now adjourn. (Seconded).

Mr. Moody, of Lawrence: Perhaps there is one matter we should consider,—

Mr. Dow: I withdraw my motion with permission of my second.

Mr. Moody: In continuation of the subject under consideration this morning, as to printing, I think perhaps we should fix upon the number of pamphlets, copies of the proceedings that we will have printed, so they can be preserved as we go along. I move that the committee on printing be instructed to have printed in addition to the number of copies that are printed daily of the proceedings, enough so that they will make up three hundred pamphlets as contemplated in Rule Two, pamphlet copies of the proceedings as contemplated in Rule Two that has been adopted.

Which motion was duly seconded.

Mr. Brookings: Of course I do not know that they need all be distributed among the members, but the Secretary of State ought to have in the archives of the new State at least one hundred copies. I think three hundred is not enough; I want it understood that at least 100 copies should go into the archives of the new state.

Mr. Taylor: I move we have five hundred copies.

Mr. Moody: The amendment is accepted. (Carried).

Mr. Dow: I renew my motion to adjourn.

Which motion prevailed.

ADJOURNED.

FOURTH DAY

Friday, Sept. 11th.

Convention called to order at 10:15 a. m., and opened with prayer by Rev. Wm. Craig.

Prayer

O Lord, Our God, Thou who dwellest in eternity; Thou who inhabitest the places of Israel; Thou before whom the angels veil their faces and the archangels bow down and cry, "Holy, holy, holy, Lord God Almighty."

"What is man, that Thou art mindful of him? Or the son of man, that Thou visitest him?" O God, what right have we to approach into Thy presence this morning and aks Thee to assist us in the duties of our daily life? We bless Thee that Thou hast opened up to us a way by which we may approach Thy mercy-seat through Thy dear Son. We thank Thee that Thou hast put into us a desire to seek Thy face and gain Thy blessing upon all our efforts. We come and ask Thee to take an interest in us this morning. Ere we begin our business we would present ourselves before Thee to invoke Thy divine blessing upon us and our labors. We thank Thee that Thou art interested in the affairs of state as well as in the affairs of the church. Thou hast in the times past held the kings of the world in Thy hand and turned them as Thou hast turned the rivers; Thou hast caused nations to feel that they have turned away from Thee; Thou hast conducted the empires of the world through grave perils to success; Thou hast taught the great republics of the world to lean upon their God. We thank Thee that Thou hast been their God; we thank Thee that they have founded themselves upon principles which are of God; in the fear of the Lord, and with a prayer for divine blessing to rest upon them. We thank Thee that Thou hast blest our nation and guarded us thus far in our history and given us so much peace and prosperity, and that Thou hast assisted us to gain our present high place among the nations.

And we pray Thee this morning, O Lord, that as this convention has been called together to consider the advisability of increasing the number of states by elevating another glorious state to this Union, Thou wilt look down upon us and give us Thy blessing. We pray, O God, for infinite wisdom; all the learning of the ages which has been conceived by the brains of men is in Thy possession, and infinitely more. Thou hast given wisdom to Thy servants of the past; Thou hast given wisdom to the kings of the earth so that they have governed wisely and raised their nations to the mighty nations of the earth; and we pray Thee that Thou wilt continue to grant wisdom in the exercise of all the affairs of state; give us that wisdom which Thou hast promised to give unto men if they will ask of Thee.

We pray Thee that everything that may be done here this morning may be done to the honor and glory of Thy name, and may we do those things to elevate our Territory into the condition of a state which will accomplish that purpose to our best interests. Guide us in our study of those great questions which interest us, and when it is past may we feel that we have done our duty as loyal men—loyal to this, our Territory. We pray Thee, Heavenly Father, to grant us Thy presence and help us to do all things in Thy fear; and we would ask it in the name of our Saviour, AMEN.

By the President: If there are any delegates on the floor who have not been sworn in, let them come forward, present their credentials, and take the oath.

Mr. Westfall: Mr. Updike is now present.

By the President: Mr. Smith, of Hand, also.

The delegates referred to came forward and were sworn in.

The Secretary read the journal of yesterday, and, no corrections being offered, the same was approved.

By the President: The Secretary will read the appointments.

By the Secretary (reading): Harry J. Morris, transcribing clerk; W. G. McKennan, enrolling and engrossing clerk.

Mr. McCallum: Mr. President, I have a resolution that I desire to offer and move its adoption.

"Resolved, that the President of this Convention be requested to obtain from the surveyor-general of Dakota the information necessary to determine through what organzed counties, if any, the forty-sixth parallel of latitude runs, and whether or not said line is the boundary of organized counties; and if not, to ascertain the amount of territory of counties not represented in this Convention that will be south of the forty-sixth parallel." (Adopted).

Mr. Conniff: Mr. President, at the request of a large portion of the people of our county, I ask to introduce some propositions for the constitution.

By the President: They shall be referred to the appropriate committees.

Propositions

Sec. ——. The right of eminent domain shall never be abridged or so construed as to prevent the Legislature from taking the property and franchises of incorporated companies, and subjecting them to public use the same as property of individuals, and the existence of the police power of the state shall never be abridged or so construed as to permit corporations to conduct their business in such manner as to infringe the equal rights of individuals or the general well being of the state.

By the President: That goes to the Judiciary Committee.

All railroads and transportation companies are declared to be common carriers and subject to legislative control, and the legisleture shall have power to enact laws regulating and controlling the rates of charges for transporting passengers and freight as such common carriers from one point to another in this state

By the President: That will be referred to the committee on corporations.

The legislature shall provide such revenue as may be needful by the levy of a tax by valuation, and all property in this state shall bear the burden of taxation equally.

By the President: The committee on legislation.

Mr. Kanouse: Mr. President, there have several gentlemen come in and taken their seats in this Convention since the committees were appointed by the Chair, who have no places assigned them, and if the Honorable Chairman of the committee on rules will please signify what committee had better be enlarged, or I make the request by common consent, if you please, that the rules be amended so as to permit the Legislative Committee to consist of eight instead of seven members, as is now provided. I hardly know how to get at that, Mr. President, except to provide that all committees be amended; that committees consisting of five or seven members be enlarged to six and eight respectively.

By the President: The gentleman will reduce his motion to writing, so that it will be referred to the committee on rules.

Mr. Dow (facetiously): I learn this morning from a gentleman that the Brown county delegation will request to withdraw from the Convention. If they withdraw, their places can be filled by new members.

Mr. Taylor: I move that we do now adjourn.

Mr. Moody: If the gentleman is not in haste, the committee on rules can have an opportunity, and will try to arrange the matter, so that these gentlemen who have recently come in may have places on the committees. There was another subject referred to the committee yesterday; that is that the committee on rules shall provide for the appointment of another committee on impeachment and removal from office. I think we can agree on a plan in a few moments, if the gentleman will withdraw his motion, and if the Convention will remain in session or take a recess for a short time. Most of these committees do not meet until after dinner. If the Chair will permit me, I will request the committee on rules and order to repair to the room below for consultation.

Mr. Taylor: I withdraw the motion.

Mr. McLeod: I move that a recess of 30 minutes be taken.

By the President: If there is no objection, a recess will be taken.

There being no objection, the motion prevailed.

RECESS.

Convention called to order by the President.

Mr. Moody: Mr. President, your committee on rules and order of business to whom was referred the resolution of Mr. Taylor, of Lincoln, for the appointing of an additional standing committee on impeachment and removal from office have had the same under consideration and beg leave to report:

Your committee recommends that a committee consisting of seven members on impeachment and removal from office be added to the standing committees of this Convention, and that said resolution with this modification be adopted.

Your committee have also had under consideration the question suggested in the motion of Mr. Kanouse to increase certain of the committees in number, and recommend that the committees on executive and administrative, and election and rights of suffrage and legislative departments of the constitution be increased to nine each, and the committee on federal relations and municipal corporations be increased to seven each.

Mr. Dow: I move that it be accepted and adopted.

The motion is carried.

Mr. Taylor: I move that the Convention adjourn.

Adjourned until 10 o'clock September 12th.

FIFTH DAY

Sept. 12, 1885.

Convention was called to order at 10:05, by the President, who immediately called Mr. Kellam, of Brule county, to preside.

Prayer was offered by Rev. F. Gardner, of Sioux Falls, as follows:

I will ask the gentlemen of the Convention to join with me in voice, in the Lord's Prayer at the end of my prayer, as I trust you will in heart throughout the entire prayer. Let us pray.

Prayer

Oh Lord, our Heavenly Father, Thou high and mighty Ruler of the universe, we beseech Thee that Thy favor may follow and bless Thy servant, the President of the United States, the Governor of this Territory and his Counsel, and the Chairman of this convention; and so replenish them with the grace of Thy Holy Spirit that they may always incline to Thy will and walk in Thy way. Endow them plenteously with Heavenly gifts; crown them with health, prosperity, and long life, and finally after this life, grant they may attain everlasting joy and felicity.

We pray also for the people of this Territory, and more especially for this Convention, assembled in their name. That Thou wouldst be pleased to prosper all the consultations of this body to the advancement of Thy glory, the safety and honor of Thy people, and the good of this Territory.

More especially we ask that Thou would be pleased to pervade all their consultations and endeavors, that we may have in this Territory peace, justice, truth, equity, religion and piety, for all generations.

We pray that Thou wilt send forth the graces of Thy Holy Spirit through this country and rouse Thy people to a sense of justice which is due us, as a people here; that they may as soon as possible give to us those rights which belong to us as men and citizens of this great country, and keep us not from our rights as they have heretofore.

All of which we ask in the name and through the merits of Him who taught us to pray: Our Father, who art in Heaven, hallowed be Thy name; Thy Kingdom come, Thy will be done, on earth as it is in Heaven. Give us this day our daily bread, and forgive us our trespasses, as we forgive those who trespass against us; lead us not into temptation, but deliver us from evil, for Thine is the Kingdom, and the Power, and theGlory, for ever, and ever, AMEN.

The journal was here read by the Secretary, as printed, of the proceedings of yesterday.

Mr. Conniff: The word "public" in the fifth line of the resolution on Eminent Domain, should read "Police."

By the President: If there is no objection, the correction will be made as suggested by the gentleman from McCook county.

Mr. Neill: As the journal of the first day of the Convention has never been approved, I move that it be read this morning.

By the President: If there is no objection, the motion of the gentleman from Grant county will be taken as the sense of the Convention, and the Secretary will read the journal of the first day's proceedings.

Which was accordingly done.

Mr. Taylor, of Lincoln: I move that the reading of the list of the members, and the standing committees, be omitted by the Secretary.

Mr. Moody: I think, as we have leisure this morning, perhaps it would be wise to go through the whole of this to see if it is entirely correct.

By the President: There was no second to the motion. You will proceed with the reading.

On motion of the several gentlemen, the following corrections were ordered made: The name of H. T. Pendleton was made to read H. F. Pendleton; T. H. Craig should read F. H. Craig; S. A. Jones should be S. Jones; the name of Schultz, of Clay county, should read M. J. instead of J. M. Schultz.

Mr. Conniff: I understand J. W. Fowler, of Pennington, is not reported as being sworn in. He was sworn in immediately upon adoption of the report. J. R. Kendall should be J. P. Kendall; C. L. Gregory should be C. M. Gregory.

By the President: The printed proceedings, with those corrections, will stand as read by the Secretary.

Mr. Huntley: Mr. President, I have a communication here from the Women's Christian Temperance Union of our Territory, asking that it be signed by the President and Secretary of the Convention, and sent to Congress, petitioning that all Sunday mails, inter-state traffic and parades on Sunday be not permitted; that all government and railroad employes be allowed to rest on the Sabbath day, except where it is a case of necessity and of mercy. Also asking whether such action can be taken.

By the President: You ask its reference to any particular committee?

Mr. Huntley: Whatever is the appropriate committee. It comes from the Women's Christian Temperance Union.

Mr. Moody: Is it asking legislation?

Mr. Huntley: It is asking Congress.

Mr. Moody: Legislation by Congress. It ought to go to the committee on Federal Relations

Mr. Kanouse: Here is a petition from W H. Lyon:

Petition

I respectfully request that this Convention incorporate a provision in this constitution, that all appropriation bills for new public institutions, and permanent improvements to existing institutions, and all laws of general interest to the people should be drafted by the Legislature, and submitted for the people to enact or reject, at annual or biennial elections, and that the Legislature be given only the power to pass appropriation bills for the ordinary running expenses of the State, and to enact the necessary laws of a local, special and private nature, that can not well be provided for by general acts. Respectfully,

W. H. Lyon.

By the President: The legislative committee

By the President: The Secretary will announce the additions to the committees instructed by yesterday's resolution.

Additional Members of Committees

Elections and Right of Suffrage—Wilcox, of Bon Homme; Alexander, of Campbell.

Municipal Corporations—Updyke, of Codington.

Federal Relations—Proudfoot, of Clark.

Executive and Administrative—Smith, of Hand; Wilcox, of Bon Homme.

Legislative—Proudfoot of Clark; Smith, of Hand.

By the President: Reports from standing committees are now in order.

Mr. Taylor: Your committee to whom was referred the subject of Military Affairs, have had the same under consideration, and thought it proper to fire the first gun, and beg leave to report the following: (Read and filed with Secretary).

By the President: In the absence of anything before the Convention, I suppose this report will go to the Secretary's desk.

Mr. Campbell: I move that it be referred to the committee on printing, printed and laid on our tables for tomorrow morning.

Mr. Moody: I think we made provision for the printing of these reports without any additional expense; that they should go into the daily reports, and thereby save the expense.

Mr. Campbell: If no motion or order is agreed upon by the Convention, will these reports appear in the record?

Mr. Neill: We did not feel like doing so until ordered by the Convention; that was the understanding of the committee.

Mr. Owen: I move that the report be printed, and then referred and incorporated in the journal.

By the President: The Chair did not hear whether there was a second to Judge Campbell's motion. If not, the motion of the gentleman from Kingsbury will be in order.

Mr. Moody: I second the motion.

Mr. Campbell: I say that there should be some order for these reports to come before us printed. My view is to have them printed, and brought before us at as early a day as possible. I think the Convention should make some arrangement, because I do not see how we can get on without these reports of committees.

Mr. Neill: Mr. Chairman, the printing of those reports, unless there is some other provision, can not be printed in the journal. To do so would necessitate the printing two or three times of the amendments. That will have to be contained in the motion; the extra expense; that was the understanding of the committee.

Mr. Moody: The proposition was to print the journal, as all the proceedings, from day to day. Well, now, a report coming from a committee will go into the journal necessarily, and therefore must be printed, unless it is dispensed, and the journal will then be incomplete. Now, my view was that instead of ordering separate reports printed, or a separate printing, that it was entirely sufficient to incorporate it into the journal before laid upon our tables in the morning. That is all the printing necessary, unless there is a further reference, and the increased report or provision to the printing committee, and then it will go into the ournal of daily proceedings. In other words, I do not see the necessity for any extra printing of these reports, as they come to us, and we have them in the morning in the journal of proceedings.

For instance, there are several reports separate, and we order them all printed in the journal, and all reports from committees will appear in the journal tomorrow morning, and I suppose that is all. I do not desire that we go to any extra expense. These reports will be incorporated in it at length.

By the President: The Chair understands the motion of the gentleman from Yankton to be this, that the printing committee be instructed to procure printed copies of all reports of standing committees generally.

Mr. Campbell: I will reduce my motion to writing, and hand it to the Chair to be read.

Mr. Brookings: I think next Monday at three o'clock we shall probably meet, to which time we shall adjourn. It will be impossible to have the reports all printed in the journal of the next morning. I favor a resolution to this effect, that when the committees get their reports ready, they give them to the chairman of the committee on printing, and have them printed and reported back. I don't know the cost, only that the rates for printing the journal are 60 cents a thousand, and it will cost so much for the journal anyway. Some are desirous of having these reports printed, so that there will be a space left for the amendments, a space between the lines, or something of the kind. The only reason I speak thus is that so many committees will be ready to report Monday afternoon, then they can be ready by Monday at three o'clock, and it will be pretty hard for the printers to get them ready and all printed by Tuesday morning at 10 o'clock. That is the only object, and I do not think it will make much difference in the case.

Mr. Campbell: I offer the following

Resolution

Resolved, That the reports of all standing committees when made, shall be printed and laid on the tables of members.

Mr. Campbell: I think it very necessary that these printed reports have marginal lines, and be detached from the journal, so that we can make alterations and corrections, and then they can be preserved in files. The last time we had these printed reports. Let the chairman of the printing committee have them in these separate forms. According to Judge Brookings' estimate, the expense would not be much greater.

Mr. Moody: We are all striving for the same end in this matter of economy; it is our duty, and I don't propose to make any objection that will hinder or delay the proper committee in this business, nor am I disposed to be penurious in the expense, but it strikes me that the way to determine this question is first to consider what is being done and what is necessary to be done. Now the object of this journal and laying it upon the tables of the members each morning was not merely for the purpose of informing us as to the details, the administrative business as we may term it, but that we might have the journal complete as we go along, under the supervision of the Convention, that it may be corrected from time to time, so there will be no prejudice or mistake about it. Of course, a legislative body conducts its journal in a different manner from a body of this kind, from a Constitutional Convention. Necessarily, here, many of the propositions come from the committees; some are referred to committees as a basis for them to act upon, and they report back their proposition and it becomes a part of the record. In a legislative body this insertion is indicated, it goes upon the recording bill book by its number and its title and it is among the records of the time, and it is not necessary that the bill appear upon the journal only by its number and title; and that is carried all through the proceedings of both houses.

I do not see how the Secretary can distinguish what is proper in a report from a committee here, to go upon the journal, and what is not proper to go upon the journal. It strikes me that each proposition as it is presented should go in full upon the journal. The easiest way is to incorporate the reports into the journal and have them printed, as they are a part of the proceedings, and then you have them on your tables the next morning. If the gentleman desires extra copies printed of that journal, I have no objection, because if the type is set up he may take as many copies as he chooses and that will not involve any extra expense except mere press work.

What I had in view was this: As these matters necessarily go into the journal we should be satisfied to have them appear in the journal now, and as for extra copies of them, certainly we don't want to exclude them.

Mr. Huntley, of Jerauld: It is exceedingly difficult for the committees to separate their work one from another; it is like three, four or five distinct parts, like so many pebbles or links which are to be soldered together and made into one entire whole. As I understand it the work of the committees is to be stitched together and kept out of circulation and form a separate record. There would be great modifications and would it be worth our while to circulate all these changes that we are obliged to make, throughout the Territory? To my mind it seems better to publish these separately and then keep what we have done here in the committee rooms.

By the President: Are you ready for the question of the adoption of the resolution offered by Mr. Campbell, of Yankton?

Mr. Owen: I would like to have it read.

Resolution —

Resolved, That the report of all standing committees when made shall be printed and laid on the table of the members.

By the President: You have heard the resolution read. The motion is to adopt it. Those in favor of the motion manifest it by saying Aye; contrary, No. The Ayes appear to have it.

By the President: A division is called for. Those in favor of adoption rise and stand until counted.

By the President: The Ayes will be seated and the Noes will stand while being counted.

Ayes, 46; Nays, 36; the resolution is adopted.

Mr. More, of Beadle: Will the action just taken obviate the necessity of having the reports published of the proceedings? It strikes me that it is necessary that it should be published that we may have a continuous history of the proceedings.

Mr. Neill: I would like to inquire at what stage of the proceedings they would like to have these reports incorporated in the journal. As I understand it they shall be at least once printed in the journal. At what stage of the proceedings shall these committee reports be printed in the journal?

Mr. Campbell: My idea is this, and I simply express my views without any decided ideas. What we want to get at is an exact record. As I understand it, if these reports are printed and laid upon the tables of the members there is no necessity of their appearing in the journal. For instance, a chairman of a certain committee makes a report. This report is taken under consideration by the Convention and finally adopted; then, I think, will be the proper time for the report to go into the journal. If another course seems more fitting, let us have it, but it strikes me there is no necessity of all this going into the journal. It can be taken with us to our committee rooms, discussed as a whole, amended, perfected and finally adopted; then let it go into the journal as part of the proceedings.

Mr. Ward, of Hughes: Do we not want to preserve a history of the report and the changes in the report that have been made? Isn't that a part of this Convention?

Mr. Brookings, of Minnehaha: I think we could make arrangements to have it printed separately, and then you can have it in the journal if you wish, and it will cost not a great deal more.

Mr. Williams, of Hand: I move that the committee on printing be instructed to have printed in the journal all reports of the standing committees.

Mr. Ward, of Hughes: I second the motion.

Mr. Cranmer, of Edmunds: Mr. President, as I understand it, the motion is unnecessary, as the committee on printing has already made arrangements with the printers to make copies in the order in which they have been made, and that that arrangement has been ratified by the Convention.

Mr. Williams: I understood the chairman of the committee on printing a few moments ago, that he desired instruction on the subject as to where these reports should be incorporated.

Mr. Fisher: We seem to have something here that is not clearly understood. The motion that Mr. Moody made was that these reports be made in full. We have a resolution offered, that resolution is read at length and the members pass upon it, it is then referred to a committee and that committee takes action upon it and makes a report upon the resolution under consideration, and we have no record of that under the vote as just taken. If I understand the gentleman it is to correct any defects, and now we are coming around to the fact that we want a complete record. I am in favor of printing these reports at length, in full, as they are amended by the committees, and I hope the gentleman's motion will pass, and that the reports of the committees will be printed in full.

Mr. Moody: I don't think I could instruct our Secretary how to keep this journal. There is but one or two ways to keep this journal so that it will be of any value to us or to anybody else on earth. If we put upon the journal that A, of so and so, made a report, nobody will know whether it was a report of a dog fight or for the government of the Territory. One way is this: to incorporate into the journal the entire proceedings, including the reports of the committees, and I never knew of a deliberative body to purposely fail to put in their journal the proceedings of committees. As I have said, in legislative bodies the reports of the committees go into the journal in full; and in others they keep track of the legislation by bills, which are numbered as they come in and the title is given and they are referred to in the journal and in the bill book; and all you have to do is to refer to it and you have the whole history of it and every man's vote. I say in this case we might adopt a mode by which this journal would not be so greatly injured; by putting in the reports by number of a bill or article as the heading, etc., in the nature of a bill; then it could be referred to by the journal as of that number or title, and it could be traced through and through or analyzed, and the action taken upon it as appears on that journal. What we want now is a record of the proceedings as we go along laid upon the tables of the members each morning; and if others desire it printed separate and distinct from the journal, all I have to say is that it will double up the expense. If you want extra copies, let that portion of the journal be printed separate and you will merely add the cost of the press work. We should be careful or we will pile up the expense too much.

By the President: Let us have the resolution of the gentleman from Hand; if it has now been reduced to writing the Secretary will please read.

"Resolved, that the committee on printing be instructed to have printed in the journal of the proceedings all reports of standing committees, and all amendments offered thereto."

Mr Miller, of Hughes: It is my opinion that we ought to adopt both of these propositions that have just been before us. By and by when we get a little further along we will go into committee of the whole on some of these reports, and we will want to take that report, and it will probably be picked all to pieces, and it will probably come back from that committee in altogether a different form from that in which it was received by them; it then comes back to this convention as a report from the committee on the whole; and if we have these reports from the standing committees printed in the journal, I do not understand how you are going to take that up and interline it and erase and put in other words that are desired to be put in there—that are voted to be put in there—and have it in such shape in the journal that the committee of the whole can report it back to this Convention. And it strikes me that this Convention wants not only a copy of each report printed and placed on each member's table in the morning, gotten out in such shape that we can interline it, or change or add to it, but also wants these reports printed in the daily record of the proceedings of the Convention.

Mr. McCallum: Mr. President, it seems to me that this motion should not prevail. As has been intimated by gentlemen, what is to hinder a half dozen or twenty standing committees making a report upon one day? If this motion prevails, all of those reports—and they may constitute as much of a document as half of this constitution (indicating the printed copy of the constitution of 1883) must go in the journal in full. Those reports will be taken up and amended and changed and modified. The gentleman from Lawrence made one suggestion that was in point, which was this: That the reports of these standing committees are similar to bills in the Legislature, and he knows that the bills are never printed in the journal of the proceedings of either house, but he does know and this Convention knows that they are numbered and referred to by their number and by their title, and the history of those bills is kept in the journal, but the bills proper do not appear in the journal. Hence, if we adopt this motion we will have a bundle of papers laid upon our tables every day, and must this chairman approve that bundle of papers, propositions? They are subject one day to modification, the next day to change, the next to amendments, and so on, ad infinitum. It seems to me that the suggestion by the gentleman from Yankton is correct. When these reports are finally adopted the record shows that fact, and the proceedings when published will contain those reports in full. It seems to me it would be a great mistake, to contemplate the publishing of reports of standing committees, as would be indicated by the motion. What is to prevent the judiciary committee from next Monday morning coming in here with a report half as long as this whole constitution? And ten or twenty other committees doing the same? Could that appear in our journal and also be up on the tables Tuesday morning? Surely not. And it seems to me that the Convention a few moments ago when it decided that motion by ten majority, indicated that it did not want the journal encumbered with these reports until they were finally adopted as the sense of the Convention.

Mr. Kanouse: I move the previous question. Seconded.

Mr. Campbell: I will ask the gentleman to bear with me one moment; I have received some information from the committee on printing.

Mr. Kanouse: I have no objection.

Mr. Campbell: I am told by the chairman of the printing committee that he thinks that he can obtain the printing of these extra slips for nothing, if they are printed in the journal; the extra slips that the former motion provided for can be obtained for nothing.

Mr. Williams: Mr. President, I think—

By the President: The gentleman from Sanborn has the floor. Does the gentleman from Sanborn insist upon his motion of the previous question?

Mr. Owen: I understand the mover of a resolution has the right to close the debate.

Mr. Kanouse, of Sanborn: I waive the motion.

Mr. Williams, of Hand: The question will come up in the future as to the proper construction of these propositions, and there will be no better method than this, I think; at any rate, a very good method of arriving at that will be to look to the journal of the proceedings to see what the history of the particular part of the constitution was as it passed through the Convention; hence, if we have the report of the committee, showing how it was first introduced, with the various amendments offered, adopted or rejected as it passed under discussion, it will be a great aid in arriving at the proper construction of the meaning which was in the mind of the Convention when it framed the proposition as it was finally passed, and the only way we can preserve that for general reference will be in the journal of proceedings, it seems to me. As I understand it, this journal of proceedings that is laid before us each morning will finally constitute the published journal of proceedings that will be preserved for general distribution.

Mr. Kanouse: I insist upon my motion of the previous question. (Carried).

By the President: The question now is upon the adoption of the resolution of the gentleman from Hand. (Carried).

Mr. Kanouse: I have a resolution to offer, and it can hardly be identified without reading:

"Resolved, the legislature shall provide such revenue as may be needful by the levy of a tax by valuation, and all property in this state shall bear the burden of taxation equally."

This was referred to the legislative committee and is respectfully reported back with the recommendation that it be referred to the committee on revenue and finance.

By the President: If there is no objection, it will be so referred. It is so referred.

Mr. Kanouse: I offer this resolution:

"Resolved, That the judiciary committee be requested to examine and report at earliest practicable time as to whether, under the act authorizing this Convention a proposition submitted separately from the constitution and at the same election, if adopted by the people, would beyond a shadow of doubt, become legally a part of the constitution."

By the President: That will be referred to the judiciary committee.

Mr. Reed, of Sully: I offer a resolution:

"Resolved, that the Governor shall have the power to approve or veto in part, any appropriation bill sent him for approval."

By the President: Referred to executive and administrative committee.

Mr. Miller, of Hughes: I wish to offer a resolution, which, after being read by the Secretary, I move you be referred to the committee on elections and right of suffrage.

"Resolved, That the committee on elections and right of suffrage be instructed to report a clause for the constitution in which the word 'male' shall not occur as a qualification for suffrage."

By the President: It is referred to the committee on elections and right of suffrage.

By the President: The Chair would suggest that when motions or resolutions are offered in writing, the gentleman who offers them append his name and the county from which he comes, so that there will be no mistake in making the record. The Secretary, of course, and the Chair, are unacquainted with very many gentlemen and do not catch the name or the county.

Mr. Maynard, of Brule: I have a resolution to offer:

"Resolved, That state, county, town, municipal and school elections for the election of officers shall be held (biennial) on the first Tuesday after the first Monday of each even numbered year, in the month of November. That such officers as are elected shall enter upon their duties on the first Wednesday of January next following. [Signed, C. J. Maynard, Brule."

By the President: Referred to committee on elections.

Mr. Hanson, of Yankton: I have a resolution I wish to offer:

By the President: The Secretary will read the resolution of the gentleman from Yankton.

"Whereas, the subject of woman suffrage has become one of such great public interest as to demand some recognition by this Convention, therefore,

"Resolved, the first legislature that convenes under provisions of this constitution, shall provide by law for submitting this question to be voted upon at the first general election thereafter, and at said election none but women having in all other respects the several qualifications enumerated in sec. —— of article —— of this constitution, shall be allowed to vote upon this question

"And if a majority of the votes so cast shall be in favor of the proposition, then, and in that case, the word 'male' shall no longer constitute one of the qualifications of an elector in this state, and women shall, forever thereafter, become qualified voters and eligible to any office within the gift of the people on an equal footing with the male population of the state, and these rights ever thereafter, shall be, in no particular, infringed by legislative enactment."

Mr. Campbell, of Yankton: What gentleman of Yankton is that from? (Great laughter).

By the President: If there be no objection that resolution will go to the judiciary committee.

Mr. McCallum: I think it properly belongs to the committee on elections and right of suffrage.

By the President: The Chair don't care, of course, but there are some legal questions involved in that resolution, and unless the Convention objects, it will go to the judiciary committee.

(Referred to judiciary committee).

Mr. Gunderson, of Jerauld: I have a resolution to present.

"Resolved, That no county with an area of eight hundred and sixty-four (864) square miles or less shall be divided or have any part stricken therefrom without submitting the question to a vote of the people of the whole county, nor unless a majority of all the voters of the county voting on the question shall vote for the same."

(Referred to committee on county and township organization.)

Mr. Conniff: Mr. President, I wish to present a proposition:

"Sec. ——. All laws of a general nature shall have a uniform operation. The legislature shall not grant to any citizen, or class of citizens, corporation or company, privileges or immunities which upon the same terms shall not equally belong to all citizens, classes, corporations or companies."

By the President: Referred to the legislative committee.

Mr. Owen, of Kingsbury: I should think that would go to the committee on bill of rights.

Mr. Campbell, of Yankton: I think it should go to the legislative committee. That is upon the very matters upon which they are now engaged.

Mr. Conniff, of McCook: A similar provision is found in the bill of rights only, in any other constitution that I have seen. I ask that it be submitted to the committee on the bill of rights.

By the President: The rule makes it the duty of the chair to refer it to the appropriate committee, and in reference to the mover, I will refer it to the committee on the bill of rights.

Mr. Walton, of Brookings: I wish to offer the following resolution:

"Resolved, That the legislature shall pass efficient laws facilitating the investigation of breaches of trust and duty by all custodians of public funds, and providing for their suspension from office on reasonable cause shown, and for the appointment of temporary incumbents of their offices during such suspension.
R. C. Walton, Brookings county."

By the President: Referred to the legislative committee.

Mr. Brookings, of Minnehaha: I wish to offer a resolution:

"Resolved, That all appropriation bills shall contain but one subject matter, and no omnibus appropriation bill shall ever be passed by the legislature, except that all salaries of state officers may be in the same bill."

By the President: Referred to the legislative committee.

Mr. Hanson, of Yankton, offered the following resolution:

"Resolved, Railroads are hereby declared to be public highways as well as common carriers constructed for the convenience and benefit of the people, and proper subjects of legislative control, as such. No railroad hereafter constructed in this state shall pass within a distance of three (3) miles of any town containing not less than two hundred inhabitants without constructing its line of road through said town, and building and maintaining a depot within the town limits for receiving and unloading passengers and freight in the usual manner, unless prevented by natural obstacles such as rivers or mountains; provided, that such town or its citizens shall grant the right of way through its limits and sufficient land for ordinary depot grounds; and no railroad shall establish and maintain any other depot for receiving and unloading passengers and freight within a distance of ten miles from such town."

By the President: That is referred to committee on corporations other than banking and municipal.

Mr. Conniff: Mr. President, I have a resolution to offer, and ask that it be referred to the committee on bill of rights.

Sec. ——. Private property shall not be taken for public use without just compensation first made or secured to be paid as soon as it can be ascertained, and any advantage which may result to the owner, on account of the improvement for which it is taken, shall not be considered in adjusting said compensation.

Mr. Brookings: I move that when we adjourn, we adjourn until three o'clock Monday. I would say the object in making the motion is, quite a number of the gentlemen will be absent and the train that brings many in arrives at three o'clock. It will give the committees a chance to have a good, long time to work; after that I think most of the committees will have reported and we can work five or six or eight hours a day.

By the President: There might be some question of that motion being in order. We are pursuing now the order of business, presentation of resolutions and propositions relating to the Constitution.

Mr. Brookings: My motion is, WHEN we adjourn; but I withdraw my motion.

Mr. Owen, of Kingsbury, presented the following resolution:

"Resolved, That no railroad or other transportation company shall grant a free pass or other special favor to the chief executive of the state, any judge of a court of record, member of the Legislature, or railroad commissioner; and the acceptance thereof shall work a forfeiture of office"

Mr. Owen: The above provision is a modification of Section 19, Article 12, of the Constitution of California, adopted in 1879.

By the President: That is referred to the committee on corporations other than banking or municipal.

Under the order of business, Reports of Standing Committees, Mr. Stone, of Potter, suggested that the standing committee on Military Affairs were ready to report.

Mr. Walton, of Brookings: I move that the report of the standing committee on Military Affairs be read.

Which was accordingly done, as follows:

Report of the Committee on Military Affairs

The following report is made by your committee, who respectfully recommend its adoption:

Sec. 1. The militia of the state of Dakota shall consist of all able-bodied persons residing in the state, between the ages of eighteen and forty-five years, except such persons as now are, or hereafter may be, exempted by the laws of the United States or of this state.

Sec. 2. The legislature shall provide by law for the enrollment, uniforming, equipment and discipline of the militia and the establishment of volunteer and such other organizations, or both, as may be deemed necessary for the protection of the state, the preservation of order and the efficiency and good of the service. And the said military organization shall be required to assemble in camp of instruction and drill not less than two nor more than four days annually.

Sec. 3. The legislature in providing for the organization of the militia, shall conform, as nearly as practicable, to the regulations for the government of the armies of the United States.

Sec. 4. All militia officers shall be commissioned by the Governor and may hold their commissions for such period of time as the legislature may provide, subject to removal by the Governor for cause to be first ascertained by a court martial pursuant to law.

Sec. 5. The militia shall in all cases except treason, felony or breach of the peace be privileged from arrest during their attendance at musters and elections and in going to and returning from the same.

Sec. 6. All militia property, records, banners and relics of the state, except when in lawful use, shall be preserved in the office of the Adjutant General as an enduring memorial of the patriotism and valor of Dakota, and it shall be the duty of the Legislature to provide by law for the safe keeping of the same.

Sec. 7. No person having conscientious scruples against bearing arms shall be compelled to do military duty in time of peace.

J. W. Taylor,
S. F. Huntley,
W. H. Sheets,
S. C. Weatherwax,
R. C. Tousley,
Stephen Jones,
C. Burchler,
Committee

Mr. Williams: The committee on Public Accounts and Expenditures will meet at the Commercial House at 1:30 p. m.

Mr. Kanouse requested the members of the Legislative Committee to meet him at once after adjournment.

Mr. Dow: I would suggest that the Committee on Amendments and Revision of the Constitution will meet at 2 p. m. at the room over the post office, and request that every member be present.

Mr. Campbell, of Yankton: I would ask the committee on Schedule to meet at 3 o'clock at the Commercial House.

By the President: I would like to state for the benefit of the two gentlemen who were this morning added to the committee on Executive and Administrative that the committee will meet at three o'clock at the Commissioner's room in the court-house, which is the room immediately over the post office.

On motion of Mr. Owen, of Kingsbury, Convention adjourned until Monday morning.

SEVENTH DAY

Sept. 14, 1885.

The Convention was called to order by Mr. Kellam, acting President.

Prayer was offered by Rev. P. E. Holp, of Sioux Falls, as follows:

Prayer

Thou Blessed Father, we give Thee thanks for the hallowed rest of the Sabbath. We thank Thee for the communion of soul that we have had with Thee. We thank Thee for the strengthened faculties to labor Thou hast given to us. We ask Thee on this opening day of the week that we may bring the wealth of the Sabbath day, that we may bring the strength and the joy and the wisdom gained thereby, that we may apply it to the duties of the coming week, that is now opening. We bless Thee, Father, for the effects of Thy rest upon us this morning. Do Thou help us feel, our Father, the weight of the responsibility, in all its fullness, in the work we are now engaged. Help us, Father, that we may carry out our efforts, and that they may be fulfilled to the honor and glory and wisdom of Thy righteous name. We seek Thee, our Father, this morning, because Thou art found full of wisdom, and that wisdom we seek at Thy hands this day.

Help us, Father, to feel that even the atmosphere is charged with Thy Holy Spirit. May we all fully realize what we are doing here, and feel that we are living history; that we are making history, that we are history itself.

And may we be filled, O God, with Thy wisdom, and with Thy goodness. We ask, our Heavenly Father, that Thou wilt take from us whatever of littleness, whatever of jealousy, whatever of revenge, there may be in our hearts.

And do Thou grant, Oh, Heavenly Father, that we may do things right, and that we may do it well. That Thy blessing may rest upon all the work that has been done, grant us, Father, Thy continued influence and Thy spirit, and help us feel that in all our work Thou art ruling, overruling all things, to Thine glory and the majesty of Thy kingdom.

Lead us in life, and accept us in death, for Thy Name's sake, AMEN.

By the President: The Secretary will read the journal of the last session. (Journal read by Secretary).

By the President: If there are no corrections, the journal will stand as read.

Mr. Neill: Mr. President, the second day's proceedings not having been previously read and passed upon by the Convention, for the sake of corrections that may be necessary in that portion of the proceedings, that may have been detected by individual members, and not by the Secretary, I would move that any corrections to be offered be offered now.

Mr. Owen: I second that proposition.

By the President: The Chair does not understand the motion sufficiently well to present it to the house. It will take but a moment to reduce it to writing. It is a motion affecting the records, and it should be reduced to writing.

Mr. Neill: It is not a motion; it is simply a suggestion, all the other proceedings having been passed upon by the Convention except the second day's.

By the President: The suggestion of the Chair was based upon the fact that the gentleman from Kingsbury, Mr. Owen, seconded your motion. The Chair understands that your suggestion referred to the second day's proceedings.

Mr. Neill: That is correct.

By the President: The suggestion of Mr. Neill is that if there are any corrections to be made in the second day's proceedings, so that the journal may go into the hands of the committee, and be printed for permanent use, they be made now.

The Chair announced the regular order of business, and called for communications and presentations of petitions. Next, unfinished business.

By the President: Reports of standing committees.

Mr. Owen: Mr. President, the committee on the bill of rights beg leave to submit the following report:

To the President and Members of the Convention:

Gentlemen: Your committee upon "Bill of Rights" respectfully reports and recommends, as a part of the Constitution, the following:

Bill of Rights

Sec. 1. All men are born equally free and independent, and have certain inherent rights, among which are those of enjoying and defending life and liberty, of acquiring and protecting property, and the pursuit of happiness. To secure these rights governments are instituted among men, deriving their just powers from the consent of the governed.

Sec. 2. No person shall be deprived of life, liberty or property without due process of law.

Sec. 3. The right to worship God according to the dictates of conscience shall never be infringed. No person shall be denied any civil or political right, privilege or capacity, on account of his religious opinions, but the liberty of conscience hereby secured shall not be so construed as to excuse licentiousness, the invasion of the rights of others, or justify practices inconsistent with the peace or safety of the State. No person shall be compelled to attend or support any ministry or place of worship against his consent, nor shall any preference be given by law to any religious establishment or mode of worship. No money or property of the State shall be given or appropriated for the benefit of any sectarian or religious society or institution.

Sec. 4. The right of petition, and of the people peaceably to assemble to consult for the common good, and make known their opinions, shall never be abridged.

Sec. 5. Every person may freely speak, write and publish on all subjects, being responsible for the abuse of that right. In all trials for libel, both civil and criminal, the truth, when published with good motives and for justifiable ends, shall be a sufficient defense. The jury shall have the right to determine the fact and the law under the direction of the Court.

Sec. 6. The right of trial by jury shall remain inviolate, and shall extend to all cases at law without regard to the amount in controversy, but the Legislature may provide for a jury of less than twelve in any case before Justices of the Peace, and for the decision of civil cases, by three-fourths of the jury in any court.

Sec. 7. In all criminal prosecutions the accused shall have the right to defend in person and by counsel, to demand the nature and cause of the accusation against him, to have a copy thereof, to meet the witnesses face to face, to have compulsory process served for obtaining witnesses in his behalf, and to a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed.

Sec. 8. All persons shall be bailable by sufficient sureties, except for capital offenses where the proof is evident or the presumption great.

The privilege of the writ of habeas corpus shall not be suspended, unless in case of rebellion or invasion or the public safety may require it.

Sec. 9. No person shall be compelled in any criminal case to give evidence against himself, or be twice put in jeopardy for the same offence.

Sec. 10. No person shall be held for a criminal offence unless on the presentment or indictment of a grand jury or information of the public prosecutor, except in cases of impeachment in cases cognizable by county courts, by justices of the peace, and in cases arising in the army and navy or in the militia when in actual service in time of war or public danger; provided, that the grand jury may be modified or abolished by law.

Sec. 11. The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated, and no warrant shall issue but upon probable cause supported by affidavit, particularly describing the place to be searched and the person or thing to be seized.

Sec. 12. No ex post facto law, or law impairing the obligation of contracts, or working any irrevocable grant of privilege, franchise or immunity, shall be passed.

Sec. 13. Private property shall not be taken for public use or damaged without just compensation as determined by a jury, which shall be paid as soon as it can be ascertained. No benefit which may accrue to the owner in common with the owners of adjacent property as the result of any improvement shall be considered in fixing the compensation for property taken or damaged. The fee of land taken for railroad tracks or other highways shall remain in such owners subject to the use for which it is taken.

Sec. 14. No distinction shall ever be made by law between resident aliens and citizens, in reference to the possession, enjoyment or descent of property.

Sec. 15. No person shall be imprisoned for debt arising out of or founded upon a contract.

Sec. 16. The military shall be in strict subordination to the civil power. No soldier in time of peace shall be quartered in any house without consent of the owner, nor in time of war except in the manner prescribed by law.

Sec. 17. No tax or duty shall be imposed without the consent of the people or their representatives in the Legislature, and all taxation shall be equal and uniform.

Sec. 18. No law shall be passed granting to any citizen, class of citizens, or corporation, privileges or immunities which upon the same terms shall not equally belong to all citizens or corporations.

Sec. 19. Elections shall be free and equal, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.

Soldiers in time of war may vote at their post of duty in or out of the state, under regulations to be prescribed by the Legislature.

Sec. 20. All courts shall be open and every man for an injury done him in his property, person or reputation, shall have remedy by due course of law and right and justice administered without denial or delay.

Sec. 21. No power of suspending laws shall be exercised, unless by the Legislature or its authority.

Sec. 22. No person shall be attainted of treason or felony by the Legislature.

Sec. 23. Excessive bail shall not be required, excessive fines imposed nor cruel punishments inflicted.

Sec. 24. The right of the citizens to bear arms in defence of themselves and the State shall not be denied.

Sec. 25. Treason against the State shall consist only in levying war against it or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless ou the testimony of two witnesses to the same overt act or confession in open court.

Sec. 26. The State of Dakota is an inseparable part of the American Union, and the Constitution of the United States is the supreme law of the land.

Sec. 27. The blessings of a free government can only be maintained by a firm adherence to justice, moderation, temperance, frugality and virtue, and by frequent recurrence to fundamental principles.

John A. Owen,
James H. More,
H. Craig,
C. S. Gifford,
W. H. Goddard,
Committee.

Sept. 14, 1885.

By the President: The Chair will announce that the understanding upon Saturday was that these reports of standing committees will go to the printing committee.

Mr. Ward: The committee on Corporations Other Than Banking and Municipal, have a report which is herewith submitted.

The committee on "Corporations" other than Banking or Municipal" respectfully submit the following report:

ARTICLE ——.

CORPORATIONS.

Sec. 1. No corporation shall be created by special laws, or its charter extended, changed or amended, except those for charitable, educational, penal or reformatory purposes, which are to be and remain under the patronage and control of the state, but the legislature shall provide, by general laws, for the organization of all corporations hereafter to be created.

Sec. 2. All existing charters, or grants of special or exclusive privileges, under which a bona fide organization shall not have taken place and business been commenced in good faith at the time this constitution takes effect, shall thereafter have no validity.

Sec. 3. The Legislature shall not remit the forfeiture of the charter of any corporation now existing, or alter or amend the same, or pass any other general or special law for the benefit of such corporation, except upon the condition that such corporation shall thereafter hold its charter subject to the provisions of this constitution.

Sec. 4. The exercise of the right of eminent domain shall never be abridged or so construed as to prevent the legislature from taking the property and franchises of incorporated companies and subjecting them to public use, the same as the property of individuals; and the exercise of the police power of the state shall never be abridged or so construed as to permit corporations to conduct their business in such manner as to infringe the equal rights of individuals or the general well-being of the state.

Sec. 5. In all elections for directors or managers of a corporation, each member or shareholder may cast the whole number of his votes for one candidate, or distribute them upon two or more candidates, as he may prefer.

Sec. 6. No foreign corporation shall do any business in this state without having one or more known places of business, and an authorized agent or agents in the same, upon whom process may be served.

Sec. 7. No corporation shall engage in any business other than that expressly authorized in its charter, nor shall it take or hold any real estate except such as may be necessary and proper for its legitimate business.

Sec. 8. No corporation shall issue stocks or bonds except for money, labor done, or money or property actually received; and all fictitious increase of stock or indebtedness shall be void. The stock and indebtedness of corporations shall not be increased except in pursuance of general law, nor without the consent of the persons holding the larger amount in value of the stock first obtained, at a meeting to be held after sixty days' notice given in pursuance of law.

Sec. 9. Municipal and other corporations and individuals invested with the privilege of taking private property for public use shall make just compensation for property taken, injured or destroyed, by the construction or enlargement of their works, highways, or improvements, which compensation shall be paid or secured before such taking, injury, or destruction. The legislature is hereby prohibited from depriving any person of an appeal from any preliminary assessment of damages against any such corporations or individuals made by viewers or otherwise; and the amount of such damage in all cases of appeal shall, on the demand of either party, be determined by a jury as in other civil cases.

Sec. 10. The legislature shall have the power to alter, revoke, or annul any charter of incorporation now existing and revokable at the taking effect of this constitution, or any that may hereafter be created, whenever in their opinion it may be injurious to the citizens of this state; in such manner, however, that no injustice shall be done to the corporators. No law hereafter enacted shall create, renew, or extend the charter of more than one corporation.

Sec. 11. No law shall be passed by the legislature, granting the right to construct and operate a street railroad within any city, town, or incorporated village, without requiring the consent of the local authorities having the control of the street or highway proposed to be occupied by such street railroad.

Sec. 12. Any association or corporation organized for the purpose, or any individual, shall have the right to construct and maintain lines of telegraph within this state, and to connect the same with other lines; and the legislature shall, by general law, of uniform operation, provide reasonable regulations to give full effect to this section. No telegraph company shall consolidate with, or hold a controlling interest in, the stock or bonds of, any other telegraph company owning a competing line, or acquire by purchase or otherwise, any other competing line of telegraph.

Sec. 13. The state shall not become a stockholder in any corporation; and it shall not assume or pay the debt or liability of any corporation, unless such debt or liability shall be incurred or such subsidy granted in time of war for the benefit of the state.

Sec. 14. Every railroad corporation organized or doing business in this state, under the laws or authority thereof, shall have and maintain a public office or place in this state for the transaction of its business, where transfers of stock shall be made and in which shall be kept, for public inspection, books, in which shall be recorded the amount of capital stock subscribed, and by whom; the names of the owners of its stock, and the amounts owned by them respectively; the amount of stock paid in, and by whom; the transfers of said stock; the amounts of its assets and liabilities, and the names and place of residence of its officers. The directors of every railroad corporation shall annually make a report, under oath, to the auditor of public accounts, or some officer or officers to be designated by law, of all their acts and doings, which report shall include such matters relating to railroads as may be prescribed by law, and the legislature shall pass laws enforcing by suitable penalties the provisions of this section.

Sec. 15. The rolling stock, and all other movable property belonging to any railroad company or corporation in this state, shall be considered personal property, and shall be liable to execution, and sale, in the same manner as the personal property of individuals; and the legislature shall pass no law exempting any such property from execution and sale.

Sec. 16. No railroad corporation shall consolidate its stock, property or franchises with any other railroad corporation owning a parallel or competing line; and in no case shall any consolidation take place except upon public notice given, of at least sixty days, to all stockholders, in such manner as may be provided by law. Any attempt to evade the provisions of this section by any railroad corporation, shall work a forfeiture of its charter.

Sec. 17. Railways heretofore constructed or that may hereafter be constructed in this state are hereby declared public highways, and all railroad and transportation companies are declared to be common carriers and subject to legislative control; and the legislature shall have power to enact laws regulating and controlling the rates of charges for the transportation of passengers and freight as such common carriers from one point to another in this state.

Sec. 18. Any association or corporation organized for the purpose shall have the right to construct and operate a railroad between any points within this state, and to connect at the state line with railroads of other states. Every railroad company shall have the right with its road to intersect, connect with, or cross any other railroad; and shall receive and transport each the other's passengers, tonnage, and cars, loaded or empty, without delay or discrimination.

Sec. 19. The legislature shall pass laws to correct abuses and prevent unjust discrimination and extortion in the rates of freight and passenger tariffs on the different railroads in this state, and enforce such laws by adequate penalties, to the extent, if necessary for that purpose, of forfeiture of their property and franchises.

Sec. 20. The term "corporations," as used in this article, shall be construed to include all joint stock companies or associations having any of the powers or privileges of corporations not possessed by individuals or partnerships.

Respectfully submitted,

James A. Ward,
T. H. Conniff,
G. C. Britton,
E. M. Jessup,
J. R. Hanson,
W. W. Brookings,
Jeremiah Gehon,
Theodore Elfes,
George R. Laybourn,
Matt A. Ryan,
Frank Gault,
Isaac Gray,
L. W. Lansing.

Mr. Kanouse: Mr. President, I notice in the proceedings of last Saturday, a resolution offered by Mr. Walton, which the record says was referred to the Legislative Committee, but which the Legislative Committee has not had possession of, and I suppose we will have to get it, if it is introduced in our report.

Mr. Stone: I would like to know if it would not cause trouble, when we come to heading "Seven," the consideration of reports of standing committees, if they are not at once considered.

By the President: The understanding of the Chair is that these reports of standing committees, when they come in, are submitted to the printing committee, printed and distributed upon the tables of members of this Convention, so that members may have an opportunity of examining and studying them before they come before the Convention. That I suppose is the object of the resolution. Each member may see what they contain, and prepare himself for their consideration. The suggestion of the gentleman from Sanborn county is that a resolution referred to his committee he has not had possession of. It is the Legislative Committee.

Mr. Ward, of Hughes: The committee on corporations, other than banking or municipal, respectfully report back the following resolution, and recommend that the same be referred to the Judiciary Committee:

Resolution

Resolved, Railroads are hereby declared to be public highways, as well as common carriers, constructed for the convenience and benefit of the people and proper subjects of legislative control, as such; no railroad hereafter constructed in this State shall pass within a distance of three (3) miles of any town containing not less than 200 inhabitants without constructing its line of road through said town, and building and maintaining a depot within the town limits for receiving and unloading passengers and freight in the usual manner, unless prevented by natural obstacles, such as rivers or mountains; provided, that such town or its citizens shall grant the right of way through its limits and sufficient land for ordinary depot grounds; and no railroad shall establish and maintain any other depot for receiving and unloading passengers and freight within a distance of ten miles from such town.

Mr. Ward, of Hughes: The committee on Corporations other than Banking or Municipal respectfully report back the following resolution and recommend that it be referred to Legislative Committee.

Resolution

Resolved, That no railroad or other transportation company shall grant a free pass or other special favor to the chief executive of the State, any Judge of a court of record, member of the Legislature, or railroad commissioner, and the acceptance thereof shall work a forfeiture of office.

The above provision is a modification of Section 19, Article 12, of the Constitution of California, adopted in 1879.

Mr. Kanouse: Mr. President, the Legislative Committee has had under consideration the subject referred to it, and would respectfully submit the following report, and recommend its adoption.

Theo. D. Kanouse,
S. A. Jones,
Geo. W. Snow,
J. R. Hanson,
N. I. Lowthian,
C. J. Maynard,
H. J. Grant,
R. A. Proudfoot,
H. M. Smith,
Committee.

Sec. 1. The legislative power shall be vested in a legislature, which shall consist of a Senate, and a House of Representatives.

Sec. 2. The number of members of the House of Representatives shall not be less than fifty-five, nor more than one hundred and twenty-five, the number of members of the Senate shall not be less than twenty-five, nor more than forty-five.

The session of the Legislature shall be biennial, except as otherwise provided in this Constitution.

Sec. 3. No person shall be eligible to the office of Senator who is not a qualified elector in the district from whence he may be chosen, and a citizen of the United States, and who shall not have attained the age of twenty-five years, and who shall not have been a resident of the State for two years next preceding his election.

No person shall be eligible to the office of Representative who is not a qualified elector in the district from whence he may be chosen, and a citizen of the United States, and who shall not have been a resident of the State for two years next preceding his election.

No Judge, or Clerk of any court, Secretary of State, Attorney General, States Attorney, Recorder, Sheriff, or Collector of Public Moneys, member of either house of Congress, or person holding any lucrative office under the United States, or this State, or any foreign government, shall be a member of the Legislature (provided that appointments in the Militia, the offices of Notary Public, and Justices of the Peace, shall not be considered lucrative), nor shall any person holding any office of honor or profit under any foreign government or under the government of the United States (except Postmasters whose annual compensation does not exceed the sum of $300) hold any office in either branch of the Legislature or become a member thereof.

Sec. 4. The Legislature shall provide by law for the enumeration of the inhabitants of the State in the year 1895 and every ten years thereafter, and at its first regular session, after each enumeration, and also after each enumeration made by authority of the United States, but at no other time, the Legislature shall apportion the Senators and Representatives according to the number of inhabitants, excluding Indians not taxed, and soldiers and officers of the United States army and navy.

Sec. 5. No person who has been or hereafter shall be convicted of bribery, perjury, or other infamous crime, nor any person who has been or may be collector or holder of public moneys, who shall not have accounted for and paid over according to law all such moneys due from him, shall be eligible to the Legislature or to any office in either branch thereof.

Sec. 6. Members of the Legislature, and the officers thereof, before they enter upon their official duties, shall take and subscribe the following oath or affirmation: I do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the State of Dakota, and will faithfully discharge the duties of (Senator, Representative or Officer) according to the best of my abilities, and that I have not knowingly or intentionally paid or contributed anything, or made any promise in the nature of a bribe, to directly or indirectly influence any vote at the election at which I was chosen to fill said office, and have not accepted, nor will I accept or receive, directly or indirectly, any money, pass or any other valuable thing, from any corporation, company, or person, for any vote or influence I may give or withhold on any bill, resolution, or appropriation, or for any other official act.

This oath shall be administered by a Judge of the Supreme or Circuit Court, or the presiding officer of either house, in the hall of the house to which the member or officer is elected, and the Secretary of State shall record and file the oath subscribed by each member and officer.

Any member or officer who shall refuse to take the oath herein prescribed, shall forfeit his office.

Every member or officer of the Legislature who shall be convicted of having sworn falsely to, or violated his said oath, shall forfeit his office, and be disqualified thereafter from holding the office of Senator or Member of the House of Representatives or any office within the gift of the Legislature.

Sec. 7. The terms of office of the members of the Legislature shall be for two years; they shall receive for their services the sum of $5.00 for each day's attendance (unless excused) during the session of the Legislature, and ten cents for every mile they shall travel in going to and returning from the place of meeting of the Legislature on the most usual route.

Each regular session of the Legislature shall not exceed sixty days except in cases of impeachment, and members of the Legislature shall receive no other pay or perquisites except per diem and mileage.

Sec. 8. The Legislature shall meet at the seat of government on the first Tuesday after the first Monday of January at twelve o'clock M., in the year next ensuing the election of members thereof, and at no other time except as provided by this constitution.

Sec. 9. Each house shall be the judge of the election returns and qualifications of its own members.

A majority of the members of each house shall constitute a quorum, but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner and under such penalty as each house may provide.

Each house shall determine the rules of its proceedings, shall choose its own officers and employees, and fix the pay thereof.

Sec. 10. Senators and Representatives shall, in all cases except treason, felony or breach of the peace, be privileged from arrest during the sessions of the Legislature, and in going to and returning from the same, and for words used in any speech or debate in either house they shall not be questioned in any other place.

Sec. 11. No person elected to the Legislature shall receive any civil appointment within this state during the time for which he shall have been elected, and all such appointments, and all votes given for any such members for any such office or appointment, shall be void; nor shall any member of the Legislature be interested directly or indirectly in any contract within the state or any county thereof, authorized by any law passed during the term for which he shall have been elected or within one year after the expiration thereof.

Sec. 12. In all elections to be made by the Legislature the members thereof shall vote VIVE VOCE, and their votes shall be entered in the journal.

Sec. 13. Each house shall keep a journal of its proceedings and publish the same from time to time, except such parts as require secrecy, and the yeas and nays of members on any question shall be had at the desire of one-sixth of those present and it shall be entered upon the journal.

Sec. 14. The sessions of each house, and the committee of the whole, shall be open, unless when the business is such as ought to be kept secret.

Sec. 15. Neither house shall without the consent of the other adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

Sec. 16. Every bill shall be read three several times, but the first and second reading may be upon the same day, and the second reading may be by title of the bill unless the reading at length be demanded; the first and third readings shall be at length.

Sec. 17. No bill, except general appropriation bills, shall be passed containing more than one subject, which shall be clearly expressed in its title; but if any subject shall be embraced in any act, which shall not be embraced in the title, such act shall be void only as to so much thereof as shall not be so expressed.

The Governor shall have the power to veto any one or more of the several items in a general appropriation bill and approve other items thereof.

Sec. 18. In all cases where a general law can be made applicable, no special law shall be enacted by the Legislature.

Sec. 19. The enacting clause of a law shall be: "Be it enacted by the Legislature of the State of Dakota," and no law shall be passed unless by assent of a majority of all the members elected to each house of the Legislature. And the question upon the final passage shall be taken upon its last reading, and the Yeas and Nays shall be entered upon the journal.

Sec. 20. The presiding officer of each house shall, in the presence of the house over which he shall preside, sign all bills and joint resolutions passed by the Legislature, after their titles have been publicly read immediately before signing; and the fact of signing shall be entered on the journal.

Sec. 21. Any bill may originate in either house of the Legislature, and a bill passed by one house may be amended in the other.

Sec. 22. No money shall be paid out of the treasury except upon appropriations made by law and on warrant drawn by the proper officer in pursuance thereof.

Sec. 23. The Legislature shall not authorize any games of chance, lottery or gift enterprise, under any pretense, or for any purpose whatever.

Sec. 24. The Legislature shall never grant any extra compensation to any public officer, agent, servant or contractor after the services shall have been rendered or the contract entered into, nor authorize the payment of any claims or part thereof created against the State under any agreement or contract made without express authority of law; and all such unauthorized agreements or contracts shall be null and void. Nor shall the compensation of any public officer be increased or diminished during his term of office; provided, however, the Legislature may make appropriations for expenditures incurred in suppressing insurrections or repelling invasions.

Sec. 25. The Governor shall issue writs of election to fill such vacancies as may occur in either house of the Legislature.

Sec. 26. The Legislature shall direct by law in what manner and in what courts suits may be brought against the State.

Sec. 27. No act shall take effect until ninety days after the adjournment of the session at which it passed, unless in case of emergency (to be expressed in the preamble or body of the act) the Legislature shall by a vote of two-thirds of all the members-elect to each house, otherwise direct.

Sec. 28. Any Governor of this state who asks, receives or agrees to receive any bribe upon any understanding that his official opinion, judgment or action shall be influenced thereby, or who gives or offers or promises his official influence in consideration that any member of the Legislature shall give his official vote or influence on any particular side of any question or matter upon which he may be required to act in his official capacity, or who menaces any member by the threatened use of his veto power, or who offers or promises any member that he, the said Governor, will appoint any particular person or persons to any offices created, or thereafter to be created, in consideration that any member shall give his official vote or influence on any matter pending or thereafter to be introduced into either house of said Legislature, or who threatens any member that he, the said Governor, will remove any person or persons from any office or position, with intent to in any manner influence the official action of said member, shall be punished in the manner now or that may hereafter be provided by law, and upon conviction therefor shall forfeit all right to hold or exercise any office of trust or honor in this State.

Report of the Committee on the Executive and Admsnistrative Department.

Mr. Kellam: Mr. President, your committee on the executive and administrative department of the constitution having had the same under consideration, beg leave to submit the following report:

A. G. Kellam,
M. A. Ryan,
J. D. Mason,
L. H. Weeden,
R. C. Walton,
H. J. Grant,
Frank Gault, Sr.
Smith,
Wilcox.

ARTICLE ——.

EXECUTIVE DEPARTMENT.

Sec. 1. The executive power shall be vested in a Governor, who shall hold his office two years; a Lieutenant Governor shall be elected at the same time and for the same term.

Sec. 2. No person shall be eligible to the office of Governor or Lieutenant Governor except a citizen of the United States, and a qualified elector of the State, who shall have attained the age of thirty years, and who shall have resided two years next preceding his election within the state; nor shall be eligible to any other office during the term for which he shall have been elected.

Sec. 3. The Governor and Lieutenant Governor shall be elected by the qualified electors of the state, at the time and places of choosing members of the Legislature. The persons respectively having the highest number of votes for Governor or Lieutenant Governor, shall be elected. But if two or more shall have an equal and highest number of votes for Governor or Lieutenant Governor, the two houses of the Legislature, at its next regular session, shall forthwith, by joint ballot, choose one of such persons for said office. The returns of the election for Governor and Lieutenant Governor, shall be made in such manner as shall be prescribed by law.

Sec. 4. The Governor shall be commander-in-chief of the military and naval forces of the state (except when they shall be called into the service of the United States), and may call out the same to execute laws, suppress insurrection, and repel invasion. He shall have power, to convene Legislature on extraordinary occasions. He shall at the commencement of each session communicate to the Legislature, by message, information of the condition of the state, and shall recommend such measures as he shall deem expedient. He shall transact all necessary business with the officers of the government, civil and military. He shall expedite all such measures as may be resolved upon by the Legislature, and shall take care that the laws be faithfully executed.

Sec. 5. The Governor shall have power to remit fines and forfeitures, to grant reprieves, commutations and pardons after conviction, for all offenses except treason and cases of impeachment; provided, that in all cases where the sentence of the court is capital punishment, imprisonment for life, or for a longer period than two years, or a fine exceeding two hundred dollars, no pardon shall be granted, sentence commuted or fine remitted, except upon the recommendation in writing of a board of pardons consisting of the Chief Justice, Secretary of State and Attorney General, after full hearing in open session; and such recommendations, with the reason therefor, shall be filed in the office of the Secretary of State. But the Legislature may by law, in all cases, regulate the manner in which the remission of fines, pardons, commutations and reprieves may be applied for. Upon conviction for treason he shall have the power to suspend the execution of the sentence until the case shall be reported to the Legislature at its next regular session, when the Legislature shall either pardon or commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall communicate to the Legislature at each regular session, each case of remission of fine, reprieve, commutation or pardon, granted by him in the cases in which he is authorized to act without the recommendation of the said board of pardons, stating the name of the convict, the crime of which he is convicted, the sentence and its date, and the date of the remission, commutation, pardon or reprieve, with his reasons for granting the same.

Sec. 6. In case of the death, impeachment, resignation, failure to qualify, absence from the state, removal from office, or other disability of the Governor, the powers and duties of the office for the residue of the term, or until he shall be acquitted or the disability removed, shall devolve upon the Lieutenant Governor.

Sec. 7. The Lieutenant Governor shall be President of the Senate, but shall have only a casting vote therein. If, during a vacancy of the office of Governor, the Lieutenant Governor shall be impeached, displaced, resign or die, or from mental or physical disease become incapable of performing the duties of his office, the Secretary of State shall act as Governor until the vacancy shall be filled or the disability removed.

Sec. 8. When any office shall from any cause become vacant, and no mode is provided by the constitution or laws for filling such vacancy, the Governor shall have power to fill such vacancies by appointment.

Sec. 9. Every bill which shall have passed the Legislature shall, before it becomes a law, be presented to the Governor. If he approve, he shall sign it; but if not, he shall return it, with his objection, to that house in which it originated, who shall enter the objection at large upon the journal and proceed to reconsider it. If after such reconsideration two-thirds of the members present shall agree to pass the bill, it shall be sent, together with the objection, to the other house, by which it shall likewise be reconsidered, and if it be approved by two-thirds of the members present, it shall become a law. But in all such cases, the vote of both houses shall be determined by the ayes and nays, and the names of the members voting for and against the bill shall be entered upon the journal of each house respectively. If any bill shall not be returned by the Governor within three days (Sunday excepted) after it shall have been presented to him, the same shall be a law, unless the Legislature shall, by its adjournment, prevent its return; in which case it shall be filed with his objection, in the office of the Secretary of State within ten days after such adjournment, or become a law.

Sec. 10. The Governor shall have power to disapprove of any item or items of any bill making appropriations of money embracing distinct items; and part or parts of the bill approved shall be law, and the item or items disapproved shall be void, unless enacted in the manner following. If the Legislature be in session he shall transmit to the house in which the bill originated a copy of the item or items thereof disapproved, together with his objections thereto, and the items objected to shall be separately reconsidered and each item shall then take the same course as is prescribed for the passage of bills over the executive veto.

Sec. 11. There shall be chosen by the qualified electors of the state, at the times and places of choosing members of the Legislature, a Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction, and Attorney General, who shall severally hold their offices for the term of two years; but no person shall be eligible to the office of treasurer for more than two terms consecutively. They shall respectively keep their offices at the seat of government.

Sec. 12. The powers and duties of the Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction and Attorney General shall be as prescribed by law.

By the President: We will now listen to the reports of the Standing Committees.

Mr. Neill: I have a resolution proposing a name for the new state, and move its adoption.

Resolution

Resolved, That the name of the new state be Dacotah, spelled D-a-c-o-t-a-h, after the original derivation of the word.

By the President: Referred to the committee on Name, Boundaries, and Seat of Government.

Mr. Gregory, of Brule county, offered the following resolution:

Resolved, That property of all corporations doing business within the limits of this state, other than municipal, banks, insurance, and manufacturies, and such other property as may be exempt by law, be assessed by the State Board of Equalization. The State Board of Equalization shall consist of the Auditor of the State, who shall be the chairman of the Board, and one member from each Congressional district, whose term of office shall be two years, or until their successors are elected and qualified, and shall be elected at the same time as members of Congress.

Referred to the committee on Revenue and Finance.

The following resolution was offered by Mr. Weeden, of Lawrence county:

Resolved, That no property of any corporation or individual, either real or personal, shall be exempt from compensation for labor.

Referred to committee on Exemptions.

Mr. Tousley offered the following resolution:

Resolved, That the clerks of the several counties shall be clerks of the various courts (otherwise provided for) and held within their respective counties, except Justice of the Peace courts.

Referred to the committee on City and Township Organization.

Mr. Moody: I think—

By the President: The Chair is not tenacious where it goes. If there is any objection to any of these resolutions the Chair will be glad to hear it.

Mr. Moody: I have no objections to offer.

Mr. Tousley offered the following:

Resolved, That every school district shall be single in character, and distinct in its organization and boundaries, and the Board of County Commissioners or Supervisors shall establish said boundaries in as equitable and uniform manner as possible, and nothing in this section shall prevent the changing of said boundary lines at any time that said Commissioners or Supervisors shall deem it expedient.

Referred to the Committee on Education and School Lands.

Mr. Tousley offered the following resolution:

Resolved, That on the first passage in either house of the Legisalture of any act which imposes, continues or revives any appropriation of public trust, or property, or releases, discharges or commutes any claim or demand of the State, the question shall be taken by yeas and nays, which shall be duly inserted upon the journals; and three-fifths of all the members elected to either house shall in all cases be necessary to constitute a quorum therein.

Referred to the committee on Legislation.

Mr. Tousley offered the following resolution:

Resolved, That every law which imposes, continues or revives a tax shall distinctly state that tax or the object to which it is to be applied, and it shall not be sufficient to refer it to any other law to fix such tax or object.

Referred to the Legislative Committee.

Mr. Tousley offered the following resolution:

Resolved, That there shall be no change in the laws relative to kind and amount of real and personal property exempt from seizure and sale for the payment of any debt or contract, and shall be the laws now in force as the law of this Territory for eleven years from the first of January, 1886.

Referred to the committee on Exemptions.

Mr. Gehon, of Lincoln county, offered the following resolution:

Resolved, That it is the sense of this Convention that if all property of individuals was exempt from execution and force sale, that the credit of the country would be strengthened, and that the moral status of man would be raised to a higher plane.

Referred to the committee on Exemptions.

Mr. Coffin, of Beadle county, presented the following resolution and moved its adoption:

Resolved, That the Seal of State shall bear the motto, "Under God the People Rule."

Mr. Owen: I second the motion.

By the President: Referred to the committee on Seal of State.

Mr. McCallum: Do I understand the Chair that it refuses to entertain the motion of Mr. Coffin at this time?

By the President: It is a resolution and should go to the proper committee. It is referred to the committee on Seal of State.

Mr. Tousley: I present a resolution and move that it be considered by the Committee of the Whole.

Resolved, That at any time that a petition signed by one-eighth of the female population of the state, shall be presented to the Legislature, asking said Legislature that all privileges accorded to the male population in their elective franchise, may be granted to the female population, then the Legislature may call a special election throughout the state to be held, and the question submitted to the female population, and under such laws as govern elections of male population at that time, except as to nationality. Provided, that said petition is signed by females over 21 years of age, and of sound mind, and said petition is vouched for as correct, and is signed voluntarily, and said vouchers to be sworn to and signed by at least ten reputable citizens of the state, and said citizen's credibility vouched for by the representative or judge of the district to which he belongs.

Mr. McCallum: I move that it be referred to the committee on Election.

Mr. Tousley: I made a motion that it be referred to the Committee of the Whole.

By the President: According to Rule 33, there will be nothing for the Chair to do but refer it to the committee on Elections and Right of Suffrage.

Mr. Tousley: I move that it be sent to the Committee of the Whole.

By the President: It has been referred to the committee on Elections and Right of Suffrage. If there is no objection we will proceed with the order of business, the presentation of resolutions relating to the Constitution.

Mr. Ryan of Aurora, offered the following resolution:

Resolved, That the Judges of the Supreme Court may be at any time required by the Governor to render their opinion upon any legal or constitutional question which he may submit to them.

Referred to the Judiciary Committee.

Mr. Elfes of Charles Mix county, offered the following resolution:

Resolved, That attendance at public schools shall be compulsory from the age of 6 to 12.

Referred to the committee on Education and School Lands.

Mr. Smith of Hand county, offered the following resolution:

Resolved, It shall be the duty of the Legislature to establish such a system of revenue that shall assess for taxation all moneys at interest and secured by mortgage in this state, whether owned here or abroad.

Referred to the committee on Revenue and Finance.

Mr. Blair offered the following resolution:

Resolution: No person shall in time of peace be required to perform any service for the public, on any day set apart by his religion as a day of rest or worship.

Referred to the committee on Bill of Rights.

By the President: Are there any other resolutions or propositions relating to the Constitution?

By the President: We are now open under the order of business, to consideration of reports of standing committees.

Mr. Britton: I move we now take up the report of the committee on Military Affairs, for consideration.

Mr. Gehon: From the fact that my colleague, Mr. Taylor, the chairman of that committee, is absent, I ask that the consideration of that report be postponed.

Mr. Brookings: In seconding the motion I am not disposed to ask a consideration of the report, if there is to be any amendments offered. Of course, if there should be no amendments offered, it would make no difference whether the Chairman was here or not.

Mr. Gehon: I would state possibly there will be amendments.

By the President: The motion, gentlemen, has been seconded by Mr. Brookings. Is the Convention now ready to proceed to the consideration of the report of the committee on Military Affairs?

Mr. Britton: I did not notice Mr. Taylor was absent; I would not insist upon this if there are any changes to be made in the report. If we can adopt the report without changes, we can have that much of the work done.

Mr. Walton: There may be amendments offered to that report.

Mr. Gehon: The mover of the motion has the right to withdraw the motion with the consent of the Convention.

Mr. Britton: I withdraw the motion with the consent of the second.

Mr. Owen: I move that the committee on Rules be requested to report tomorrow morning a recommendation as to the order in which reports of committees should be considered.

Motion is seconded by Mr. Walton, of Brookings.

Mr. Owen: I make this motion, because I discover in the reading of the reports, Mr. President, there will follow great confusion, because of the doubt of the time for hearing certain reports, it thus resulting in that the report of one committee will not be fully considered and disposed of any one day, and the reports of several committees will be on hand at one time. There should be some order. I thought first that they should be calendered and taken up in the order in which they are filed. I suggest that the committee on Rules will look over the whole subject and see what the order of business should be. I offer the motion for the covsideration of the Convention and move its adoption at this time.

Which motion prevailed.

Mr. Moody: I have a resolution that I desire to offer, and ask the unanimous consent for its immediate consideration. It relates to the appointment of a committee for a special purpose. As follows:

Resolved; That a committee of five members be appointed by the Chair whose duty it shall be to draft a memorial to the President and Congress of the United States, setting forth the action of this Convention, the authority under which it was held, the necessity therefor, and asking admission of the state of Dakota into the Union of States, under the Constitution hereat formed if such Constitution shall be adopted by the people of the proposed State, and I move adoption of the resolution.

Which motion prevailed.

Mr. Campbell: I have a resolution that I want the Secretary to read.

Mr. Moody: Don't ask the Secretary to READ it!

Mr. Campbell: If he can read the English language he will have no trouble.

The resolution was as follows:

That a standing committee of five members be appointed by the president to prepare an address to the people of Dakota and to report the same to this convention for adoption.

Mr. Campbell: I ask the unanimous consent for consideration of the resolution, and move its adoption.

Which request was granted and the resolution adopted.

Mr. Campbell: I have a resolution I would like to offer.

Resolved, That the Secretary of this convention be instructed to forward at once to the Governor of the Territroy an attested copy of the resolution of this convention calling upon him for a copy of the results of the Census, so far as they have been ascertained. I understand the resolution presented the other day was not forwarded to the Governor because of his absence; it seems to me that it is extremely important that this convention have in its hands the results of the Census of the Territory so far as it has been obtained. It may be possible that some parties who have control of that Census may not find it to their interests to forward the accurate census. I ask that this resolution be adopted, so the Secretary may forward the resolution at once to the Governor, who will undoubtedly comply.

Mr. Moody: I would like to ask for information whether it is the intent of the resolution that we have the census of the entire Territory, or that portion in which we are now interested.

Mr. Campbell: This asks for the return of the census. I suppose there will be no necessity for the census of the whole Territory. I have no objection to its being limited to this portion.

Mr. Moody: It seems to me that ought to be certified so we may present this certificate to the President and Congress of the United States, of the returns of the census as it applies to Southern Dakota, this portion of the Territory. However, I will not object to the passage of the resolution, in any shape; we will try and muster a good sized certificate. Of course we have got to present a case to the Congress of the United States and the President; a case which proves beyond a shadow of a doubt the right of the people of this portion of Dakota to carve out of the limits of the Territory a state and to be admitted into the Union; we have got to prove that this is the absolute right of this people under the Constitution. That we can do by such evidence as we may be able to present.

Upon passing to vote, the resolution presented by Mr. Campbell was adopted by the Convention.

Mr. Brookings: I would announce, owing to the scarcity of rooms, that the Sheriff of this county said we can have the use of his office, which is a very nice room, located in the court house. Any committee can use his office at any time.

Mr. Walton: I move that the Convention stand adjourned until three o'clock p. m.

Mr. Moody: It strikes me we can more profitably spend the time in committee work, in action by the several committees, than in meeting here this afternoon.

Mr. Walton's motion is withdrawn.

Mr. Tousley: I would like to make a suggestion here, in the interests of the delegates; it is something out of the order of business here, but just at this interval I would like to speak of it. It has been suggested to me by an artist here in this town that he would like to come up to the building some time tomorrow and take a sketch of the body of the house and all the members and send the same away to be enlarged into a picture the size of 15 by 30 or 35 in the clear, well framed; that in that shape would cost each member about twenty-five cents apiece, the cost of the original negative. I was encouraged that the members would take hold of this thing and put on their best bib and tucker and appear here tomorrow to have the pictures.

Mr. Reed: I move we do now adjourn.

Which motion prevailed.

ADJOURNED.

EIGHTH DAY

Tuesday, September 15th.

Convention called to order at 10:05 a. m., and opened with prayer by Rev. A. Jamieson.

Prayer

O God, our gracious Heavenly Father, we present ourselves before Thee this morning for Thy blessing and for Thy help. The duties and the responsibilities of a new day are upon us, for which we are unable in our native strength. But we thank Thee that Thou hast promised such grace and help as we need. Thou hast assured us that by coming to Thee we may obtain divine wisdom and supernatural power, so that our feebleness may be made strength and we may go through the duties of the day in such a manner that God may be well pleased with us, and as that our acts may be approved of Thee. We pray, gracious Father, that Thou wilt at this very moment come down to us and give us strength and wisdom and understanding and a sense of our responsibility to Thee, and our duty to our fellow-men, so that all the relations of life, so that the relations we sustain to our fellow mortals, so that all the relations we sustain to the state and the relation that we sustain to the nation and to the world at large, may be recognized by us.

We thank Thee, our Heavenly Father, for the care and the love that Thou hast manifested toward us in that Thou hast preserved life, in that Thou hast guaranteed to us civil and religious liberties; in that Thou hast guided us thus far amid the trials and perplexities of life. And now we pray that Thou wilt continue to let Thy face shine upon us and Thy grace be imparted to us, so that in all our ways we may honor Thee, that God may direct our paths. Forgive all our follies and our sins; guide us by Thy counsel, and finally receive us to glory, for Christ's sake. AMEN.

By the President: The reading of the journal.

The Secretary here read from the journal of proceedings of the previous day.

Mr. Moody: I move you, Sir, to dispense with the reading of the reports at large, as they are printed in another form and are here upon our desks.

By the President: It will be so ordered unless there is objection. There being no objection it is so ordered.

The Secretary will read the announcement of the committee on Impeachment and Removal from Office.

By the Secretary: Standing committee on Impeachment and Removal from Office:

Haines, of Turner.
Corson, of Lawrence.
Miller, of Hughes.
Proudfoot, of Clark.
Maynard, of Brule.
Wilcox, of Bon Homme.
Smith, of Hand.

By the President: Communication from the Governor in answer to an invitation of mine.

The same was read by the Secretary as follows:

Chicago, Sept. 11th, 1885.

Hon. A. J. Edgerton,
President, Etc.

Dear Sir:

Many thanks for the invitation conveyed in your telegram. I hope to be with you one day about the last of the month. Be kind enough to assure the members of the Convention of my kindest wishes and my sincere hope that the harmony and dignity of their deliberations may add additional strength to the cause they represent. With high regard, I am

Yours very sincerely,

Gilbert A. Pierce.

By the President: The Secretary will read a communication addressed to me in reference to municipal and state indebtedness.

The Secretary read, as follows:

N. W. HARRIS D. J. HARRIS
N. W. HARRIS & CO.
INVESTMENT BANKERS
115 & 117 Monroe Street (Montauk Block)
Adjoining First National Bank Building

CHICAGO, September 11th, 1885.

The Honorable A. J. Edgerton,
President Constitutional Convention,
Sioux Falls, Dak.

Dear Sir:

We take the liberty to address you on the subject of municipal indebtedness.

We have, within the past few years, purchased about $250,000 of the bonds of Dakota Territory, and also the bonds of various counties and cities in your Territory, to quite a large amount, and therefore we feel quite an interest, and have felt confidence, in the future prosperity of your commonwealth.

In the adoption of a constitution for the proposed state of South Dakota, in order to secure the confidence and support of eastern capitalists, and also to secure the economical management of your various municipalities by the local authorities, we would recommend that the constitution should contain a provision similar to the following, to-wit:

"No county, city, township, school district, or other municipal corporation, shall be allowed to become indebted, in any manner, or for any purpose, to an amount, including existing indebtedness, in the aggregate exceeding five per centum on the valuation of the taxable property thereof, to be ascertained by the last assessment for state and county taxes, previous to the incurring of all such indebtedness; and all bonds or obligations in excess of such amount, given by such corporation, shall be void."

The above is similar to the provisions of the constitutions of the states of Illinois, Wisconsin, Indiana, Iowa and Missouri, except in the state of Indiana, where the limit is 2 per cent. instead of 5 per cent.

Prior to the adoption of the amendment to the Illinois constitution, of the character indicated above, many of the cities of the state became heavily involved in debt, some to the extent of forty per cent. of the assessed valuation for taxation, which resulted disastrously to their prosperity. Bonds were voted to the aid of railroads, private manufacturing companies, &c., &c.

Similar experiences were had in the other states mentioned above, and the adoption of a constitutional limit has caused the confidence of the investing public, in the various municipal bonds of the states named, to be materially strengthened; and there is to-day, a large material difference in the market value of bonds issued in similar cities and counties in Minnesota and Iowa; Iowa, standing with its constitutional limit, in much higher credit than Minnesota, with no constitutional limit to the debts its municipalities can create. The constitutional limit of Indiana will undoubtedly prevent the utter bankruptcy of many townships in that state, which would otherwise have been caused by the excessive issue of township warrants. We refer to the late developments regarding that subject.

We shall be pleased to submit any additional facts or information upon the subject that may be desired, and would again call attention to the great importance, to the future prosperity of your state, of the adoption of a provision limiting the amount of indebtedness as above indicated. No other subject is of more importance to its prosperity.

We trust you will give this matter your consideration and support, and, in due course, refer this letter to the proper committee.

All of which is respectfully submitted.

Yours very truly,
N. W. HARRIS & Co.

By the President: Referred to the committee on State, County and Municipal Indebtedness.

Mr. Corson: Mr. President, I beg leave to submit the following report:

Report of the Committee on State, County and Municipal Indebtedness

Your committee to whom was referred the subject of State, County and Municipal Indebtedness, beg leave to submit the following report:

Sec. 1. The State shall not loan its credit or make donations in aid of any individual, association or corporation, nor subscribe to or become the owner of the capital stock of any association or corporation, nor engage in any work of internal improvement.

Sec. 2. For the purpose of defraying extraordinary expenses, making public improvements, or to meet casual deficits or failure in revenue, the State may contract debts never to exceed with previous debts in the aggregate of Five Hundred Thousand Dollars, and no greater indebtedness shall be incurred except for the purpose of repelling invasion, suppressing insurrection, or defending the State or United States, in war, and provision shall be made by law for the payment of the interest annually and the principal when due, by tax levied for the purpose, or from other sources of revenue, which law providing for the payment of such interest and principal by such tax or otherwise shall be irrepealable until such debt is paid.

Sec. 3. No city, county, town, municipality or other subdivision of the State shall ever make donations to or loan its credit in aid of or subscribe to the capital stock of any association or corporation, or become responsible for the debts of any individual, association or corporation.

Sec. 4. The debt of any county, city, town, school district or other sub-division shall never exceed five per centum upon the assessed value of the taxable property therein. In estimating the amount of indebtedness which a municipality or sub-division may incur, the amount of indebtedness contracted prior to the adoption of this constitution shall not be included.

Sec. 5. Any city, county, town, school district or any other sub-division incurring indebtedness, shall at or before the time of so doing provide for the collection of an annual tax sufficient to pay the interest and also the principal thereof when due, and all laws or ordinances providing for the payment of the interest or principal of any debt shall be irrepealable.

Sec. 6. Consent is given that Congress may make such provision for the payment by this State of the existing indebtedness of the Territory of Dakota as it shall deem just and equitable, and this State shall assume and pay so much thereof as Congress mav provide.

D. Corson,
Chairman.
S. H. Cranmer,
Secretary.
J. M. Baker,
E. P. Beebe,
J. T. Dow,
David Bellon,
C. E. Andrus.
N. Tychsen,
James D. Churchill.

Mr. Wright: Mr. President, the committee on Municipal Corporations beg leave to submit the following report:

By the President: The Secretary will read the report.

To the President and Members of the Constitutional Convention:

Report of the Committee on Municipal Corporations

Your committee upon Municipal Corporations respectfully report and recommend as a part of the Constitution the following:

Sec. 1. The Legislature shall provide by general laws for the organization and classification of municipal corporations. The number of such classes shall not exceed four (4), and the powers of each class shall be defined by general laws, so that no corporation shall have any powers, or be subject to any restrictions other than all corporations of the same class. The Legislature shall restrict the powers of such corporations to levy taxes and assessments, borrow money and contract debts, so as to prevent the abuse of such power.

Sec. 2. No municipal corporation shall ever become subscriber to the capital stock of any railroad or private corporation, or make donations to, or loan its credit in aid of any such corporation.

Sec. 3. The indebtedness of a municipal corporation shall never exceed in the aggregate five (5) per centum of the assessed valuation of the property within said corporation without the consent first obtained, to such increase of indebtedness, and the approval of the objects for which the same is to be created, of at least three-fourths (3-4) of all the electors of such corporation, to be ascertained in the mode prescribed by law; and in no case shall such indebtedness exceed ten per centum of such assessed valuation.

Sec. 4. Except as otherwise provided in this Constitution, no tax or assessment shall be levied or collected, except in pursuance of law, for public purposes specified by law; nor shall money raised by taxation, loan or assessment, for one purpose, ever be diverted to any other.

Sec. 5. No street, passenger railway, or telegraph or telephone line shall be constructed within the limits of any village, town or city without the consent of its local authorities.

W. M. Wright,
E. P. Beebe,
M. H. Murphy,
N. Tychsen,
S. G. Updyke,
C. Buechler.

Mr. Kanouse: I would like to call the attention of the gentlemen of the Convention to Section 4 of the report of the Legislative Committee. Strike out the period after the word "time" and make the following letter a small one, striking out the capital letter.

Also in Section 7, line 76, erase the parenthetical clause.

By the President: The correction will be made, if there are no objections.

Mr. Moody: Mr. President, the committee upon Rules and Order of Business beg leave to submit the following report at this time.

By the President: The Secretary will read the report.

Report of the Committee on Rules and Order of Business

Mr. President, your committee on Rules and Order of Business has had under consideration the matters embodied in the resolution offered by Mr. Owen, of Kingsbury county, relating to the order in which the reports of standing committees shall be considered, and beg leave to report the following rule upon that subject:

Rule 47. Under the seventh order of business, the President shall, after announcing the order, present for the consideration of the Convention the reports of standing committees in the order of their appointment, as found in the second day's proceedings of this Convention, commencing with the committee on Rules and

Order of Business, whereupon it shall be in order to consider the same by the Convention, or in Committee of the Whole.

All of which is respectfully submitted.

G. C. Moody,
Theodore D. Kanouse,
A. G. Kellam,
Henry Neill,
J. A. Ward,
Committee.

Mr. Moody: Mr. President, I ask unanimous consent of the Convention for the immediate consideration of this report, for the reason that it is essential for the transaction of business, and important if the rule is adopted, that it do go into force at once.

By the President: If there is no objection, it will now be considered. The Chair hears no objection, and the report is now before the house.

Mr. More: I have a resolution here offered by Mr. Tousley, referred to the committee on Education.

Mr. Moody: There is now a report before the Convention for consideration, and as soon as that is disposed you can have the floor. I move that the rules be suspended and the report be adopted; and in making that motion, I would state that the object of the mover of the motion was to formulate a separate rule by which the Chair should be guided, so that no confusion would ensue, and the rule provided that when the order of business is reached, in the consideration of reports of standing committees, that the Chair will announce the reports for consideration in the order of the appointment of the committees, and then proceed according to the printed rules adopted.

The motion was adopted.

Mr. More: This resolution refers to School Districts, and was referred to the committee on Education. That committee reports it back, and requests its reference to the Legislative Committee.

Mr. Dollard: I submit the report of the committee on Legislative Apportionment.

Report of the Committee on Congressional and Legislative Apportionment

Mr. President, your committee on Congressional and Legislative Apportionment having had under consideration the matters referred to them, respectfully submit the following report and recommend its adoption:

CONGRESSIONAL AND LEGISLATIVE APPORTIONMENT.

Sec. 1. Until otherwise provided by law, the members of the House of Representatives of the United States, proportioned to this state, shall be elected by the state at large.

Sec. 2. Until otherwise provided by law, the Senatorial and Representative Districts shall be formed, and the Senators and Representatives shall be apportioned, as follows:

SENATORIAL DISTRICTS.

District No. 1 shall consist of the county of Union, and be entitled to one Senator.

District No. 2 shall consist of the county of Clay, and be entitled to one Senator.

District No. 3 shall consist of the county of Yankton, and be entitled to one Senator.

District No. 4 shall consist of the county of Bon Homme, and be entitled to one Senator.

District No. 5 shall consist of the county of Lincoln, and be entitled to one Senator.

District No. 6 shall consist of the county of Turner, and be entitled to one Senator.

District No. 7 shall consist of the county of Hutchinson, and be entitled to one Senator.

District No. 8 shall consist of the counties of Douglas and Charles Mix, and be entitled to one Senator.

District No. 9 shall consist of the county of Minnehaha, and be entitled to two Senators.

District No. 10 shall consist of the county of Brule, and be entitled to one Senator.

District No. 11 shall consist of the counties of Aurora and Jerauld, and be entitled to one Senator.

District No. 12 shall consist of the county of Davison, and be entitled to one Senator.

District No. 13 shall consist of the counties of McCook and Hanson, and be entitled to one Senator.

District No. 14 shall consist of the counties of Moody and Lake, and be entitled to one Senator.

District No. 15 shall consist of the counties of Sanborn and Miner, and be entitled to one Senator.

District No. 16 shall consist of the county of Brookings, and be entitled to one Senator.

District No. 17 shall consist of the county of Kingsbury, and be entitled to one Senator.

District No. 18 shall consist of the county of Beadle, and be entitled to one Senator.

District No. 19 shall consist of the counties of Hand and Buffalo, and be entitled to one Senator.

District No. 20 shall consist of the counties of Codington and Deuel, and be entitled to one Senator.

District No. 21 shall consist of the counties of Clark and Hamlin, and be entitled to one Senator.

District No. 22 shall consist of the counties of Grant and Roberts, and the territory north thereof, and south of the 46th parallel, and be entitled to one Senator.

District No. 23 shall consist of the counties of Marshall and Day, and the territory north thereof, and south of the 46th parallel, and be entitled to one Senator.

District No. 24 shall consist of the county of Spink, and be entitled to one Senator.

District No. 25 shall consist of the county of Brown, and the territory north thereof, and south of the 46th parallel, and be entitled to two Senators.

District No. 26 shall consist of the counties of McPherson, Edmunds and Faulk, and the territory north thereof, and south of the 46th parallel, and be entitled to one Senator.

District No. 27 shall consist of the counties of Walworth, Potter, Sully and Campbell, and the territory north thereof, and south of the 46th parallel, and be entitled to one Senator.

District No. 28 shall consist of the counties of Hyde and Hughes, and be entitled to one Senator.

District No. 29 shall consist of the counties of Lawrence and Butte, and be entitled to two Senators.

District No. 30 shall consist of the counties of Pennington, Custer and Fall River, and be entitled to one Senator.

REPRESENTATIVES.

District No. 1 shall consist of the county of Union, and be entitled to three Representatives.

District No. 2 shall consist of the county of Clay, and be entitled to two Representatives.

District No. 3 shall consist of the county of Yankton, and be entitled to four Representatives.

District No. 4 shall consist of the county of Bon Homme, and be entitled to three Representatives.

District No. 5 shall consist of the county of Lincoln, and be entitled to three Representatives.

District No. 6 shall consist of the county of Turner, and be entitled to three Representatives.

District No. 7 shall consist of the county of Hutchinson, and be entitled to three Representatives.

District No. 8 shall consist of the county of Douglas, and be entitled to one Representative.

District No. 9 shall consist of the county of Charles Mix, and be entitled to one Representative.

District No. 10 shall consist of the county of Minnehaha, nd be entitled to four Representatives.

District No. 11 shall consist of the county of McCook, and be entitled to two Representatives.

District No. 12 shall consist of the county of Hanson, and be entitled to two Representatives.

District No. 13 shall consist of the county of Davison, and be entitled to one Representative.

District No. 14 shall consist of the county of Aurora, and be entitled to two Representatives.

District No. 15 shall consist of the county of Brule, and be entitled to three Representatives.

District No. 16 shall consist of the county of Moody; and be entitled to two Representatives.

District No. 17 shall consist of the county of Lake, and be entitled to two Representatives.

District No. 18 shall consist of the county of Miner, and be entitled to two Representatives.

District No. 19 shall consist of the county of Sanborn, and be entitled to two Representatives.

District No. 20 shall consist of the county of Jerauld, and be entitled to one Representative.

District No. 21 shall consist of the county of Brookings, and be entitled to three Representatives.

District No. 22 shall consist of the county of Kingsbury, and be entitled to two Representatives.

District No. 23 shall consist of the county of Beadle, and be entitled to five Representatives.

District No. 24 shall consist of the counties of Hand and Buffalo, and be entitled to three Representatives.

District No. 25 shall consist of the county of Hyde, and be entitled to one Representative.

District No. 26 shall consist of the county of Hughes, and be entitled to two Representatives.

District No. 27 shall consist of the county of Sully, and be entitled to one Representative.

District No. 28 shall consist of the county of Deuel, and be entitled to two Representatives.

District No. 29 shall consist of the county of Grant, and be entitled to two Representatives.

District No. 30 shall consist of the county of Roberts, and the territory north thereof, and south of the 46th parallel, and be entitled to one Representative.

District No. 31 shall consist of the county of Hamlin, and be entitled to one Representative.

District No. 32 shall consist of the county of Codington, and be entitled to two Representatives.

District No. 33 shall consist of the county of Clark, and be entitled to two Representatives.

District No. 34 shall consist of the county of Spink, and be entitled to five Representatives.

District No. 35 shall consist of the county of Faulk, and be entitled to one Representative.

District No. 36 shall consist of the county of Potter, and be entitled to one Representative.

District No. 37 shall consist of the county of Marshall, and the territory north thereof, and south of the 46th parallel, and be entitled to one Representative.

District No. 38 shall consist of the county of Day, and be entitled to two Representatives.

District No. 39 shall consist of the county of Brown, and the territory north thereof, and south of the 46th parallel, and be entitled to four Representatives.

District No. 40 shall consist of the county of Edmunds, and be entitled to one Representative.

District No. 41 shall consist of the county of Walworth, and be entitled to one Representative.

District No. 42 shall consist of the county of McPherson, and the territory north thereof, and south of the 46th parallel, and be entitled to one Representative.

District No. 43 shall consist of the county of Campbell, and the territory north thereof, and south of the 46th parallel, and be entitled to one Representative.

District No. 44 shall consist of the counties of Fall River and Custer, and be entitled to one Representative.

District No. 45 shall consist of the county of Pennington, and be entitled to one Representative.

District No 46 shall consist of the county of Lawrence, and be entitled to four Representatives.

District No. 47 shall consist of the county of Butte, and be entitled to one Representative.

Robert Dollard,
F. I. Fisher,
A. E. Frank,
J. M. Baker,
J. D. Mason,
C. M. Gregory,
S. M. Booth,
Charles S. Lowe,
J. B. Goddard.

Mr. Brookings: These reports are so long, and as they are printed, it seems to me unnecessary to take up the time in reading them.

By the President: Do you move that this be printed before it is read?

Mr. Brookings: Printed without reading.

By the President: It is so ordered.

Mr. Moody: I offer a report from the Judiciary Committee, and would state in this connection, that this report is not in order, only, there are some other subjects contained in it for the consideration of the Convention, and we deem it important that this report should be printed.

By the President: It is so ordered.

Mr. President, the Judiciary Committee have prepared and now present the following, which they propose as an article to be embodied in the Con titution, and recommend its adoption.

G. C. Moody,
Sept. 15, 1885. Chairman of the Committee.

Report of Judiciary Committee

ARTICLE ——.

JUDICIAL DEPARTMENT.

Sec. 1. The judicial powers of the state, except as in this Constitution otherwise provided, shall be vested in a Supreme Court, Circuit Courts, County Courts, and Justices of the Peace, and such other courts as may be created by law for cities and incorporated towns.

SUPREME COURT.

Sec. 2. The Supreme Court, except as otherwise provided in this Constitution, shall have appellate jurisdiction only, which shall be co-extensive with the state, and shall have a general superintending control over all inferior courts, under such regulations and limitations as may be prescribed by law.

Sec. 3. The Supreme Court and the Judges thereof shall have power to issue writs of habeas corpus. The Supreme Court shall also have power to issue writs of mandamus, quo warranto, certiorari, injunction, and other original and remedial writs, with authority to hear and determine the same in such cases and under such regulations as may be proscribed by law; provided, however that no jury trials shall be allowed in said Supreme Court, but in proper cases questions of fact may be sent by said Court to a Circuit Court for trial before a jury.

Sec. 4. At least two terms of the Supreme Court shall be held each year at the seat of government.

Sec. 5. The Supreme Court shall consist of three Judges, to be chosen from Districts by qualified electors of the state at large, as hereinafter provided.

Sec. 6. The number of said Judges and Districts may, after five years from the admission of the state under this Constitution, be increased, by law, to not exceeding five.

Sec. 7. A majority of the Judges of the Supreme Court shall be necessary to form a quorum or to procure a decision, but one or more of said Judges may adjourn the court from day to day, to a day certain.

Sec. 8. The term of the Judges of the Supreme Court, who shall be elected at the first election under this Constitution, shall be four years. At all subsequent elections the term of said Judges shall be six years.

Sec. 9. The Judges of the Supreme Court shall by rule select from their number a presiding Judge, who shall act as such for the term prescribed by such rule.

Sec. 10. No person shall be eligible to the office of Judge of the Supreme Court unless he be learned in the law, be at least thirty years of age, a citizen of the United States, nor unless he shall have resided in this state or the Territory at least two years next preceding his election, and at the time of his election be a resident of the district from which he is elected; but for the purpose of reelection no such Judge shall be deemed to have lost his residence in the district by reason of his removal to the seat of government in the discharge of his official duties.

Sec. 11. Until otherwise provided by law, the districts from which the said Judges of the Supreme Court shall be elected shall be constituted as follows:

First District: All that portion of the state lying west of the Missouri river.

Second District: All that portion of the state lying east of the Missouri river and west of the Dakota river.

Third District: All that portion of the state lying east of the Dakota river.

Sec. 12. There shall be a clerk of the Supreme Court, who shall be appointed by the Judges thereof, and who shall hold his office during the pleasure of said Judges, and whose duties and emoluments shall be prescribed by law, and by the rules of the Supreme Court not inconsistent with law.

CIRCUIT COURTS.

Sec. 13. The Circuit Courts shall have original jurisdiction of all actions and causes, both at law and in equity, and such appellate jurisdiction as may be conferred by law and consistent with this Constitution; such jurisdiction as to value and amount and grade of offense, may be limited by law. They and the Judges thereof shall also have jurisdiction and power to issue writs of habeas corpus, mandamus, quo warranto, certiorari, injunction, and other original and remedial writs, with authority to hear and determine the same.

Sec. 14. The state shall be divided into judicial circuits, in each of which there shall be elected by the electors thereof one Judge of the Circuit Court therein, whose term of office shall be four years.

Sec. 15. Until otherwise provided by law, said circuits shall be six in number, and constituted as follows, viz:

First Circuit: The counties of Union, Clay, Yankton, Bon Homme, Hutchinson, Hanson, Charles Mix and Douglas.

Second Circuit: The counties of Lincoln, Turner, Minnehaha, McCook, Moody, Lake and Miner.

Third Circuit: The counties of Brookings, Kingsbury, Deuel, Hamlin, Codington, Clark, Grant, Marshall, Roberts, Day, and the Wahpeton and Sisseton Reservations, and all that strip of Territory now included between the north line of the county of Day and the 46th parallel of north latitude.

Fourth Circuit: The counties of Spink, Beadle, Sanborn, Davison, Aurora, Brule, Buffalo, Jerauld.

Fifth Circuit: The counties of Brown, Hand, Hyde, Hughes, Sully, Potter, Faulk, Edmunds, Walworth, Campbell, McPherson, and including all that portion of said state lying east of the Missouri river not included in any other judicial circuit.

Sixth Circuit: All that portion of said state lying west of the Missouri river.

Sec. 16. The Legislature may, whenever two-thirds of the members of each house shall concur therein, increase the number of judicial circuits, and the Judges thereof, and divide the state into judicial circuits, accordingly, taking care that they be formed of compact territory and be bounded by county lines, but such increase of number or change in the boundaries of districts shall not work the removal of any Judge from his office during the term for which he shall have been elected or appointed.

Sec. 17. Writs of error and appeals may be allowed from the decisions of the Circuit Courts to the Supreme Court, under such regulations as may be prescribed by law.

COUNTY COURTS.

Sec. 18. There shall be elected in each organized county a County Judge, who shall be Judge of the County Court of said county; whose term of office shall be two years, until otherwise provided by law.

Sec. 19. County Courts shall be courts of record and shall have original jurisdiction in all matters of probate, guardianship, and settlement of the estates of deceased persons, and such other civil and criminal jurisdiction as may be conferred by law; provided, that such courts shall not have jurisdiction in any case where the debt, damage, claim, or value of property involved shall exceed one thousand dollars, except in matters of probate, guardianship and the estate of deceased persons. Writs of error and appeal may be allowed from county to circuit courts, or to the Supreme Court in such cases and in such manner as may be prescribed by law. Provided, no appeal or writ of error shall be allowed to the Circuit Court from any judgment rendered upon an appeal from a Justice of the Peace or Police Magistrate for cities or towns.

Sec. 20. The County Court shall not have jurisdiction in cases of felony, nor shall criminal cases therein be prosecuted by indictment; but they may have such jurisdiction in criminal matters, not of the grade of felony, as the Legislature may prescribe, and the prosecutions therein may be by information or otherwise, as the Legislature may provide.

JUSTICES OF THE PEACE.

Sec. 21. Justices of the Peace shall have such jurisdiction as may be conferred by law, but they shall not have jurisdiction of any cause wherein the value of the property or the amount in controversy exceeds the sum of one hundred dollars, or where the boundaries or title to real property shall be called in question.

POLICE MAGISTRATES.

Sec. 22. The Legislature shall have power to provide for creating such Police Magistrates for cities and towns as may be neemed from time to time necessary, who shall have jurisdiction of all cases arising under the ordinances of such cities and towns respectively, and such Police Magistrates may also be constituted ex-officio Justices of the Peace for their respective counties.

STATES ATTORNEYS.

Sec. 23. The Legislature shall have power to provide for an Attorney General for the state, and States Attorneys, and to prescribe their duties and fix their compensation; but no person shall be eligible to the office of Attorney General or State's Attorney who shall not at the time of his election be at least twenty-five years of age and possess all the other qualifications for Judges of Circuit Courts as prescribed in this article.

MISCELLANEOUS.

Sec. 24. No person shall be eligible to the office of Judge of he Circuit or County Courts, unless he be learned in the law, be at least twenty-five years of age, and a citizen of the United States; nor unless he shall have resided in this state or territory at least one year next preceding his election, and at the time of his election be resident of the county or circuit, as the case may be, for which he is elected.

Sec. 25. The Judges of the Supreme Court, Circuit Courts, and County Courts, shall be chosen at the first election held under the provisions of this Constitution, and thereafter as provided by law, and the Legislature may provide for the election of such officers as a different day from that on which an election is held for any other purpose; and may for the purpose of making such provision extend or abridge the term of office of any of such Judges then holding, but not in any case more than six months. The terms of office of all Judges of Circuit Courts, elected in the several judicial circuits throughout the state, shall expire on the same day.

Sec. 26. The time of holding courts within said judicial circuits and counties shall be as provided by law; but at least one term of the circuit court shall be held annually in each organized county, and the Legislature shall make provision for attaching unorganized counties or territory to organized counties for judicial purposes.

Sec. 27. Special terms of said courts may be held under such regulations as may be provided by law.

Sec. 28. The Judges of the Circuit Courts may hold courts in other circuits than their own under such regulations as may be prescribed by law.

Sec. 29. The Judges of the Supreme Court and Circuit Courts and County Courts shall each receive such salary as may be provided by law consistent with this Constitution, and no such Judge shall receive any compensation, perquisite or emoluments for, or on account of his office in any form whatever, except such salary; provided, that County Judges may accept and receive such fees as may be allowed under the land laws of the United States.

Sec. 30. No Judge of the Supreme Court, or Circuit Courts, shall act as attorney or counsellor at law, nor shall any County Judge act as attorney or counsellor at law, in any case which is, or may be brought into his court, or which may be appealed therefrom.

Sec. 31. There shall be a clerk of the Circuit Court in each organized county, who shall also be clerk of the County Court, and who shall be elected by the qualified electors of such county. The duties and compensation of said clerk shall be as provided by law and regulated by the rules of the court consistent with the provisions of law.

Sec. 32. Until the Legislature shall provide by law for fixing the terms of courts, the Judges of the Supreme, Circuit and County Courts respectively shall fix the terms thereof.

Sec. 33. All laws relating to courts shall be general and of uniform operation throughout the state, and the organization, jurisdiction, power, proceedings and practices of all the courts of the same class or grade so far as regulated by law, and the force and effect of the proceedings, judgments and decrees of such courts severally shall be uniform; provided, however, the Legislature may classify the County Courts according to the population of the respective counties, and fix the jurisdiction and salary of the Judges thereof accordingly.

Sec. 34. No Judge of the Supreme or Circuit Courts shall be elected to any other than a judicial office, or be eligible thereto, during the term for which he was elected such Judge. All votes for either of them during such term for any elective office except that of Judge of the Supreme Court, Circuit Court, or County Court, given by the Legislature or the people, shall be void.

Sec. 35. All Judges or other officers of the Supreme, Circuit or County Courts provided for in this article shall hold their offices until their successors respectively are elected or appointed and qualified.

Sec. 36. All officers provided for in this article shall respectively reside in the District, County, Precinct, City or Town for which they may be elected or appointed. Vacancies in the elective offices provided for in this article shall be filled by appointment until the next general election, as follows: All Judges of the Supreme, Circuit and County Courts by the Governor; all other judicial and other officers by the County Board of the county where the vacancy occurs; in cases of Police Magistrates, by the municipality.

Sec. 37. All process shall run in the name of the "State of Dakota." All prosecutions shall be carried on in the name of and by the authority of the "State of Dakota."

By the President: Are there any other reports from standing committees?

Are there any reports from select committees?

Are there any resolutions and propositions relating to the Constitution?

Mr. Fowler: I have a petition referred to the committee on Federal Relations, by some lady in the western part of the Territory. I desire to refer it back to the Convention, and let such members as see fit to sign this petition, do so at their leisure.

Mr. Ward, of Hughes: I have a resolution that I desire to offer, and move that it be referred to a special committee of three, appointed by the President.

Resolution

Resolved, That the House of Representatives shall consist of three times the number of the members of the Senate, and their term of office shall be two years. The representatives shall be elected in each Senatorial district, at the first election provided by this Constitution, and every two years thereafter. In all elections of Representatives aforesaid, each qualified voter may cast as many votes for one candidate as there are Representatives to be elected, or may distribute the same in equal parts thereof among the candidates, as he shall see fit; and the candidate highest in vote shall be declared elected.

By the President: Mr. Ward, of Hughes, moves that this resolution be referred to a special committee of three. Is the Convention ready for the question?

Mr. Moody: I move that it go to the Executive Committee.

The motion is seconded.

Mr. Campbell: Under the rules it must go to the regular committee.

Mr. Kellam: I desire to supplement the suggestion of Mr Campbell, of Yankton, with the further suggestion that to send this resolution to a select committee, as asked by the mover, would require either the suspension or amendment of our standing rule. Rule 33 provides that all motions and resolutions not pertaining to the current business of the Convention shall, upon being read, be referred by the President to the appropriate committee, without debate.

Mr. Neill: Where a motion has already been made for reference to a select committee, and the same subject is referred to a standing committee, rule 23 provides that the question of reference to a standing committee shall first be put. I move that it be referred to the standing committee first, according to the rule, in order that we may have it correct, and then refer it to a select committee.

Mr. Kellam: I move that the rule be suspended.

Mr. Ward, of Hughes: As it takes two-thirds majority to suspend the rule, I don't understand that it is necessary under the order of business.

By the President: If it did not go to one of the standing committees, under the rule, sending it to a special committee would require suspension.

Mr. Dow: As I understand this rule it would go to the standing committee where no motion is made by the Convention to the contrary.

By the President: The motion is that this resolution be referred to a special committee of three. Are you ready for the question? Those in favor of this motion say Aye; contrary, No.

The Chair being in doubt, a division of the house was called, the result being that motion was lost.

Mr. Dow: Do I understand that the motion that it be referred to a select or special committee is out of order?

By the President: That is not the question. I have not passed upon that question.

Mr. Dow: I thought you had passed upon that.

Mr. Brookings: I move that it be referred to the proper standing committee.

By the President: According to Rule 23, it goes there without any motion. It is referred to the Legislative Committee.

Mr. Elfes, of Charles Mix, offered the following resolution:

"Resolved, That after five years from the assembling of the first Legislature the public school lands of the state may be offered for sale on the following conditions: One-fourth of the purchase money to be paid at the time of the sale; a credit of no less than fifteen years shall be given on the remainder, with interest at seven per cent. per annum.

Payment of one-fourth of the purchase money may, however, be made at the end of every five years from the date of sale.

The amount of land offered at first sale shall not exceed one-fourth of the whole amount of such lands, and in no case shall lands be sold for less than fifteen dollars ($15) per acre.

The first Legislature shall provide for the leasing of the public school lands for grazing purposes, the revenue derived therefrom shall be paid to the general school fund of the state.

By the President: Referred to the committee on Education and School Lands.

Mr. Williams offered the follow-nig report of standing committee:

Report of Committee of Public Accounts and Expenditures

The following is made by your committee, who respectfully recommend its adoption.

Sec. 1. No money shall be paid out of the treasury except upon appropriation by law and on warrant drawn by the proper officer.

Sec. 2. The general appropriation bill shall embrace nothing but appropriations for ordinary expenses of the executive, legislative and judicial departments of the state, the current expenses of state institutions, interest of the public debt and for common schools. All other appropriations shall be made by separate bills, each embracing but one subject, and shall require a two-thirds vote of all the members elected to each branch of the Legislature.

Sec. 3. The Legislature shall never grant any extra compensation to any public officer, employee, agent or contractor, after the service shall have been rendered, or the contract entered into, nor authorize the payment of any claim or part thereof, created against the state, under any agreement or contract made without express authority of law, and all of such unauthorized agreements or contracts shall be null and void; provided, however, the Legislature may make appropriations for expenditures incurred in suppressing insurrections or repelling invasions.

Sec. 4. Neither the state nor any county, township or municipality shall loan or give its credit to make donations to, or in aid of, any individual, association or corporation, except for the necessary support of the poor, nor subscribe to, or become the owner of, the capital stock of any association or corporation.

Sec. 5. An itemized statement of all receipts and expenditures of the public moneys shall be published annually in such manner as the Legislature shall provide, and such statement shall be submitted to the Legislature at the beginning of each regular session by the Governor, with his message.

Manford E. Williams,
Chairman.
S. E. Huntley,
Secretary.
E. I. Oaks,
George A. Laybourn,
G. J. Maynard,
Matt A. Ryan,
J. P. Kendall.

Mr. Ryan offered the following resolution:

Resolved, Corporations shall be denied the right of appeal from judgments rendered against them when the amount is less than fifty dollars.

Referred to the Judiciary Committee.

Mr. Booth: I ask permission to present a report on Mines, Mining and Water Rights.

Report of Committee on Mines, Mining and Water Rights.

Mr. President and Gentlemen of the Convention:

Your committee on Mines, Mining and Water Rights beg leave to report the following, to-wit:

Sec. 1. There shall be established and maintained the office of Commissioner of Mines, the duties and salary of which shall be prescribed by law, when said office shall be established the Governor shall with the advice and consent of the Senate appoint thereto a person known to be competent, whose term of office shall be four years.

Sec. 2. The Legislative Assembly shall provide by law for the proper ventilation of mines, the construction of escapement shafts and such other appliances as may be necessary to protect the health and secure the safety of the workmen therein, and shall prohibit the employment in the mines of children under twelve years of age.

Sec. 3. The Legislative Assembly may make such regulations from time to time as may be necessary for the proper and equitable drainage of mines.

Sec. 4. The Legislative Assembly shall provide that the science of mining and metallurgy be taught in at least one institution of learning under the patronage of the state.

WATER RIGHTS.

Sec. 5. The water of every natural stream not heretofore appropriated within the state of Dakota is hereby declared to be the property of the public, and the same is dedicated to the use of the people of the state, subject to appropriation as hereinafter provided.

Sec. 6. The right to divert the unappropriated waters of any natural stream to beneficial and necessary uses shall never be denied; priority of appropriation shall give the better right as between those using the water for the same purpose; but when the waters of any natural stream are not sufficient for the service of all those desiring the use of the same, those using the water for domestic purposes shall have the preference over those claiming for any other purpose.

Sec. 7. All persons and corporations shall have the right of way across public, private and corporate land for the construction of ditches, canals and flumes for the purpose of conveying water for domestic purposes, for irrigation of agricultural lands and for mining, milling and manufacturing purposes and for drainage, upon payment of just compensation.

Sec. 8. The Legislative Assembly shall provide by law that the Board of County Commissioners or Supervisors, as the case may be, in their respective counties, shall have power when application is made to them by either party interested to establish reasonable maximum rates to be charged for the use of water whether furnished by individuals or corporations.

S. M. Booth,
Chairman.
J. R. Hanson,
J. W. Fowler,
Kirk G. Phillips,
H. J. Grant,
C. S. Gifford.

Mr. Cranmer: I desire to offer the following resolution:

ARTICLE ——.

PROHIBITION.

No person or corporation shall manufacture for sale any intoxicating liquor or sell or keep for sale such liquor as a beverage. The Legislature shall by law prescribe regulations for the enforcement of the provisions of this section, and provide suitable penalties for the violation of the provisions thereof.

Referred to the committee on Prohibition.

Mr. Gehon offered the following resolutions:

Resolved, That the Legislature of this state shall have power to appropriate $1,000 (One Thousand Dollars) to be donated to one agricultural association in each of the several counties of this state, when they comply with such rules and regulations as the Legislature may prescribe by law.

Referred to Legislative Committee.

Resolved, That for the purpose of encouraging manufacturing the Legislature may exempt all capital that may hereafter be invested in manufacturing in this state, for a term not to exceed five years from the time of investment, under such rules and regulations as the Legislature may prescribe.

Referred to the committee on Finance.

Mr. Brown: I move that the Constitution provide that no

Legislative enactment, for extraordinary purposes, or granting special privileges or powers to corporations, shall become a law until it shall have first been submitted to the people to pass upon and approved by a majority of those voting for or against such measure.

Referred to the Legislative Committee.

Mr. Gehon offered the following resolution:

Resolved, That wherever it may occur that two or more counties are embraced in the same representative district for the purpose of forming one senatorial district, and one of them having the necessary population to entitle it to one Representative, said county shall be entitled to elect said Representative and for election purposes shall be an independent Representative district.

Referred to the committee on Apportionment.

Mr. Coffin offered the following:

Resolved, That in the location of public institutions, no bonus shall be received as an inducement to locate the same.

Referred to State Institutions and Public Buildings Committee.

Mr. Cranmer, of Edmunds, offered the following:

Resolved, That no law shall be revived or amended by reference to its title only; but the law revived or the section or sections amended, shall be re-enacted and published at length.

Referred to the Legislative Committee.

Mr. Cranmer offered the following:

At the same election at which this Constitution is submitted to the people for adoption or rejection, a proposition to strike out the article on "Prohibition" shall be separately submitted for adoption or rejection, in the following manner: A separate ballot may be presented by such person having a right to vote at such election, to be deposited in a separate box. And those presented for the adoption of such proposition shall have the words, "Shall the article of Prohibition be stricken from the Constitution? No." And if at said election, the majority of all the votes cast for and against said proposition shall have the words, "Shall the article on Prohibition be stricken from the Constitution? Yes," then said article on Prohibition shall be stricken from the Constitution, and be no part thereof.

Referred to the committee on Prohibition.

Mr. Kanouse: I move we go into Committee of the Whole for the consideration of the report of the Legislative Committee.

By the President: I very much question the power inherent in this Convention to go into committee of the whole, but if there is no objection that will be the order, and I call Judge Moody to the chair.

Committee of the Whole

A Member: I would ask if it is understood the stenographers take the proceedings of the Committee of the Whole?

Mr. Moody took the chair.

By the Chair: The house is in committee of the whole house. What is the pleasure of the house?

Mr. Campbell: In the consideration of the report of the Legislative Committee, I move we take the report up section by section.

Mr. Taylor: Before proceeding to that order would it not be well to consider whether we can go into committee of the whole or not. There is a question here whether the proceedings of that committee as embodied outside of the Convention go into the order of business, whether we will have it in the record or not. I suggest that it is not in our rules, any such proceeding; and that the Committee of the Whole should rise at once.

Mr. Kanouse: It occurs to me, Sir, that our report will be made by the chairman of the committee as reported to the President of the Convention when the committee shall rise, without any trouble at all. It will then become the record of the Convention. It is better, it occurs to me. We have adopted a rule this morning providing that these reports may be considered by the Convention, or in committee of the whole. I think our chairman of the Committee of the Whole is the chairman of the committee that reported such a rule to this Convention. I see no trouble at all in taking it up and considering it.

By the Chair: The question of order was not made; it is well, though, for the Chair to suggest that the rule has been adopted by the Convention. The journal, of course, will show no proceedings except such as are reported from the committee; but we have employed stenographers to keep a record of the proceedings of the committee of the whole house, and debates as well, when the house is in session proper. The journal will not thus be lumbered with the debates that arise. If any gentleman desires to see the record as made by the stenographers, they will undoubtedly be printed, and he will have an opportunity.

By the Chairman: Gentlemen, the question is upon, the motion of the gentleman from Yankton, to proceed to consider the report of the Legislative Committee section by section.

Which motion prevailed.

Secretary read Section 1.

Mr. Kanouse: I move that it be reported back to the Convention with the recommendation that it be adopted.

Mr. Dow: It does not seem necessary for a motion in this case. I suggest that the Chairman, if there is no amendment proposed, simply pass the section in his report to the Convention.

The Chairman: The question is upon the adoption of Section 1.

Which motion prevailed.

Secretary here reads Section 2.

Mr. Brookings: I will make a motion like this: After the Chair waits a sufficient time, or sufficient time should be given the house to offer amendments, and in case none are offered, then pass the section under consideration, as to be recommended to the Convention for adoption.

The Chairman: If there is no objection, that will be the order of procedure. The Chair hears no objection; that will be the course pursued. The question is upon the adoption of Section 2 It is reported to the Convention with the recommendation that it be embodied in the Constitution.

Mr. Haines: We observe that the provisions in this section are absolutely inconsistent with the adoption of a minority representation; therefore the adoption at this time or recommendation to the Convention precludes the proper consideration of the resolution which has been referred.

Mr. Ward, of Hughes: I will move to strike out the figures "55" in the second line, and insert the number "75," and the number "125" in the same line, and insert the number, "135." (Seconded). I hope that the Convention will treat this matter in its proper light; there is a respectable minority in this Territory. I shall not insist upon this matter, as it is being embodied by the Convention, but I will ask a separate submission of it. It is one of those questions that is of sufficient importance to be considered. In order that the adoption of this motion may not effectually destroy the action of the committee upon this subject, I would ask that the committee recommend the adoption of the amendment.

Mr. Neill: In order that not only the ratio, but the multiple may be preserved in these numbers, I would amend that amendment by moving that the first number be forty-five and the last number 135.

Motion is seconded.

By the Chairman: The motion is upon the proposition of the gentleman from Hughes; that being the larger number, that will be first, to-wit, that 55 be stricken out and 75 be inserted in lieu thereof.

Mr. Haines: I do not think I clearly understand what is at issue. The ratio that has been suggested is three to one, three members of the lower house to one Senator.

Mr. Ward, of Yankton: This is not a question of apportionment between the two houses of the Legislature, but a question of what shall be the minimum and maximum number in the House of Representatives.

Mr. Haines: I would suggest that the two have that relation, and that if the minimum membership of the Senate is fixed at 25, then if the proportion of three to one is carried out, the minimum of numbers of members of the House of Representatives may be 75; therefore the minimum and maximum numbers fixed for the Senate necessarily has a relation to the numbers of members fixed for the House of Representatives. Forty-five in place of 55, in the fixing of the minimum of members of the House of Representatives, would necessitate, if the proportion of three to one is retained, that the minimum number of members of the Senate be not less than fifteen—be fifteen. For that reason I shall oppose this amendment to the amendment.

By the Chair: The Chair was in error in stating that the amendment was upon the motion offered by the gentleman from Hughes. This is a motion to strike out and insert; and the motion of the gentleman from Grant is an amendment to the motion of the gentleman from Hughes. The question now before the house is, shall the figures "55" in the second line of Section 2 be stricken out, and the figures "45" be inserted therefor?

Mr. Brookings, of Minnehaha: Forty-five, as I understand it, is the highest number the Senate can have. That number is higher than most of the Senates in the states, and for that reason the corporations can not get control of them so easily as they do in some states where the Senate is smaller. It seems to me that the amendment proposed by the gentleman from Grant is just the medium that we want—45 Senators and 135 members of the House—three to one. And I am in favor of that amendment.

Mr. Campbell, of Yankton: The question stated to us by the Chair, as I understand it, is whether "55," in the second line in Section 2, shall be stricken out and "45" inserted therefor.

By the Chair: That is the question.

Mr. Campbell: I do not understand that the remarks of the gentleman from Minnehaha have anything to do with this question. I think this Convention should be careful not to do anything to continue a rule of jobbery or anything that tends in that direction. The Territory of Dakota has suffered by reason of jobbery and the rule of corporations heretofore; and certainly the minimum should not be less than 45. Perhaps the main reason for all the disgrace and scandal that has characterized the politics of this Territory through the jobbery of its Legslature has come from the fact that the Legislatures have been small bodies easily controlled; therefore I hope that this proposition will be voted down and the proposition of the gentleman from Hughes be adopted.

Mr. Neill: I may be misunderstood, and probably was; if so, I would like an opportunity to make a correction. I gave, as I supposed, the minimum ratio and apportionment in each house, which, I think, is a very good one; and if my amendment is not so understood I should like the opportunity, with the consent of my second, to withdraw that and put it again in different form, and in such form that I think it will meet with the wishes of this Convention. The desire here, I think, is to get a proporition that will admit of a minority representation; and yet to work safely we have to work with a somewhat higher number of members than we might with a fixed proportion; and in considering the question of minority representation my idea is that we have a representation of 45 minimum and 60 maximum, in the upper house, and 135 as the minimum and 180 as the maximum in the lower house. That is the amendment I should like to put in place of the one I put formerly.

I would amend all those numbers at once; my former amendment I withdraw.

By the Chair: With the consent of the house the gentleman may withdraw his amendment. The question now is upon the amendment offered by the gentleman from Hughes, to strike out the numbers "55" and "125" in the second line of the second section, and insert in lieu thereof the figures "75" and "135" respectively. Are you ready for the question?

Mr. Neill: I wish to amend that by substituting for the numbers proposed, 45 as a minimum and 60 as a maximum in the upper house and 135 as a minimum and 180 as a maximum in the lower house.

By the Chair: The question is upon the amendment to the amendment offered by the gentleman from Grant, to amend Section 2 by striking out the figures "25" and "45" in the third and fourth lines and inserting in lieu thereof "45" and "60," and to strike out the figures "55" and "125" in the second line and insert in lieu thereof "135" and "180." Are you ready for the question?

Mr. Owen, of Kingsbury: In answer to the question of the Chair, I can safely say that I am not ready. In the first place, I would like to have that matter divided, that we need not vote on four propositions at once.

By the Chair: Do you demand a division of the question?

Mr. Owen: A division of the question and a vote on the first proposition named.

A voice from the body of the house: I raise the point of order that that has not been seconded yet.

By the Chair: Well, it is not important; if the Chair puts it the Chair seconds it. We will not go back to that point now, although I will endeavor to preserve the rule. The first proposition is to strike out the figures "55" and "125"—

By Mr. Owen: That is not the way I wish to put it; that is just as I understood it at first.

By the Chair: If a further division is desired by the gentleman, the Chair will state it. The question now is in dividing the question upon the amendment offered by the gentleman from Grant, to strike out the figures "55," as the minimum, and insert the figures "135" as the minimum.

Mr. Brookings, of Minnehaha: Mr. President, I supposed we were talking about what I called the "upper house." I think that "75" and "135" was the motion of the gentleman from Hughes, and that meets my views exactly. But I supposed we were talking in regard to the Senate.

Mr. Dollard, of Bon Homme: Mr. President, I hope the motion of the gentleman from Grant will not prevail, for reasons affecting the committee on apportionment. We have already established the basis. We have that so provided that the numbers of the members of the first Legislature, if the gentleman's proposition relating to minority representation should be adopted, will fit his plan—33 and 99. If the plan of the gentleman from Grant should be adopted, then the work of this committee will be set aside, and so far as I am concerned, so far as my experience teaches, I think it would be next to impossible for that committee to come to a conclusion that would be satisfactory—to come to a conclusion that would be satisfactory to themselves. It would necessitate a re-apportionment and probably necessitate the construction of a new committee. I am favorable to the plan of the gentleman from Hughes county. That will agree with the apportionment as already provided, and will also prevent the possibility by subsequent apportionment, of defeating the minority plan.

By the Chair: The question is upon the amendment offered by the gentleman from Grant, divided as demanded by the gentleman from Kingsbury, to strike out the figures "55," and insert the figures, "135."

(The amendment was declared lost).

By the Chair: The next question is upon striking out the figures "125" and inserting the figures "180."

(The amendment was declared lost).

By the Chair: The next proposition is to strike out the figures "25" and insert the figures "45."

(Declared lost).

By the Chair: The next proposition is to strike out the figures "45" and insert the figures "60."

(Declared lost).

By the Chair: The question now before the house is upon the amendment offered by the gentleman from Hughes to strike out of the second line the figures "55" and insert the figures "75," and strike out the figures "125" and insert the figures "135."

Voice from the rear of the room: Division of the question called for.

By the Chair: The first proposition is to strike out "55" and insert "75" in the second line of Section 2.

(Carried).

By the Chair: The next proposition is to strike out "125," second line of Section 2, and insert "135."

(Carried).

By the Chair: Are there any other amendments to this section? If not, the question is upon its adoption.

(The section was adopted.)

By the Chair: The Secretary will please read the section adopted as amended, so that there will be no mistake.

(Read by Secretary.)

A Member: I would move that we now take up the next section, 3.

The Chair: The question before the house is upon the adoption of the next section, 3. Are you ready for the question?

Mr. Cranmer: Mr. Chairman, I move to amend Section 3 by striking out the words, "twenty-five," in the thirteenth line, and inserting the number, "30."

The motion was lost.

The Chair: The question is upon the adoption of Section 3 as reported.

Mr. Stone: I notice there are some grammatical errors in this section, which should be corrected.

Delegate: We have a committee on that.

By the Chair: The Chair will give all the information he possesses on that subject. It is in the power of a committee of this Convention, and it will probably be the duty of the committee on Phraseology to correct such errors as in their judgment deemed best, and then to report back to this Convention. Are there any further amendments?

Mr. Cranmer: Mr President, I move as an amendment that the clause, "and he shall have attained the age of 25," be inserted in the 19th line after the word "election."

By the Chair: The question is upon the motion offered by the gentleman from Edmunds. Are you ready for the amendment?

Mr. Kanouse: I hardly think it necessary to say anything upon the amendment offered, but it seems to me that the gentlemen here who are acquainted with the population of Dakota are well aware of the fact that many of our citizens have just attained the age of 21 years, and are as thoroughly posted, and as much interested and competent as are those of us who have lived to be a greater age. And it seems to me that in the lower or popular house no harm can come of this, by infusing into it the voice of the people, and have a little fresh blood; and there seems no reason why a man who has lived to 21 years of age is not as well prepared to become a member of the lower house than one much older. There are a great many reasons why the Legislature of a new state should be composed of men of knowledge, and I shall oppose the amendment.

Mr. Ward, of Yankton: I think the qualities of our Legislators are acceptable, and I know that young men are sometimes so much more inexperienced, is it not best to qualify the character of our Legislators, with age, if we can not do anything more? Therefore, let us support the amendment.

Mr. Cranmer: I think there are reasons why the number "25" should be inserted. Now, let us look at this. The section as reported by the committee makes a boy of 21 eligible to be a representative in the state legislature, and, as the gentleman has well stated, we have plenty of good timber for our legislative halls in Dakota, and find that the good timber, in addition to their other qualifications, should also have the qualification of age. If we are looking for good timber, good statesmanship, make them of the age of 25 to 40 years. And let us remember that the young man has not taken the trouble to post himself in regard to our institutions. He has spent his time in the school room; he has made a brilliant record, and has become somewhat popular. Is it right that the old men who have voted for years for President, and who have made a study of these questions—should a young man, because he has made a brilliant record, be brought out and put forward as against the old men? We want brains; and let us not put a boy in the Legislature until after he has voted for President.

A Member: I for one fully agree in the idea that the boys should have a show. Had George Washington been shut out until he was twenty-five years or over, he would have lacked much of his usefulness. William Pitt, the greatest prime minister England ever had, was the prime minister at the age of 25, and made as good a record as any man ever did. If we are going to say that the young men can not acquire ability and experience until they get old, we are, it seems to me, going back, and turning this great commonwealth. I believe that the boy of 21 has ability and experience, and is qualified. I do not think the Constitution ought to attempt to shut him out.

A Member: I would like to criticise this section, that a boy who is an elector may not become a representative.

Mr. Brown: I am in favor of giving the youth a chance, and I am also in favor that legislative bodies shall be composed of men of experience. Take the youth of twenty-one years, just from college; he has not the experience; you attach to that four years of experience and he is of some account in legislative halls; and for that reason I believe that we should give him the opportun ty after he has become an elector.

The vote stands, forty-nine ayes, forty-one nayes.

The amendment carried.

By the Chairman: The question is open for adoption of Section 3. It is still open for amendment or adoption.

Mr. Kellam: He should have cast, at least, one vote for the President of the United States. These words should immediately follow the words adopted.

The motion is seconded.

Mr. Brookings: I move that the gentleman's motion be laid upon the table.

By the Chairman: The motion has not been seconded, and the Chair does not choose to second it again by mistake as he did before. The Chair has no objection to the amendment. The question now is upon the adoption of Section 3, as amended.

A vote is taken and Section 3 is adopted as amended.

By the Chairman: The question now is upon the adoption of Section 4.

Mr. Owen: Before adopting this section we certainly ought to consider where we are going. Perhaps this is the very section we do not want to adopt. Here is our great Sioux Reservation, into which the people will pour when it is open, which will probably be long before 1890.

Mr. Fowler, of Pennington: I move to add to the end of line 40, that the Legislature may make an apportionment at its first session.

The motion is seconded.

Mr. Owen: I desire to know if the gentleman intends that it shall read, "at its first session after the admission of Dakota."

By the Chair: Does the gentleman amend his amendment in that way, "Shall the Legislature continue, at its first meeting, after its admission as a state, to make apportionment?"

A vote is taken and the amendment stands.

Mr. Brookings: I move to strike out, in the first line of Section 4, the word "shall," and insert the word "may." The object in doing this is, suppose there is no increase in that length of time, and we do not want the cost of an assessment. Would it be well for the Legislature to have power to pass over it? And I move that the word "shall," in the first line of Section 4, be stricken out and the word "may" inserted.

The motion is seconded.

By the Chair: The Chair is in doubt as to the votes; if you desire we will put the motion again.

Whereupon a rising vote is taken and the amendment stands.

Mr. Ward, of Hughes: I move to strike out the words, "at no other time," in line 37.

The motion is seconded.

Mr. Owen: I desire to offer an amendment. I have not read this article until this morning, when it was laid upon the table. I think we should go over it carefully, and defer the consideration of this report and others of standing committees until it has been laid upon our tables one day.

Mr. Reed, of Sully: In order to carry out the motion made by Mr. Owen, that these reports be laid upon the tables of the members for one day before we consider them, I make a motion that this committee rise and report progress.

The motion is seconded.

By the Chair: And ask leave to sit again?

A vote is taken and the motion carried.

The President took the chair.

Convention

By the Chairman: Mr. President, I have the honor to report the house has had under consideration the measure referred to it and the Committee of the Whole house has made progress, and has risen with the request that the Chairman report progress and ask leave to sit again.

By the President: No objection being made, the report will be adopted.

Mr. Haines: I apprehend the force of the motion limits the Convention to the adoption of the recommendation of the Committee of the Whole, and desire to make this suggestion, and objection, with reference to one section, if it be in order.

By the President: The only question before the Convention is, shall they have leave to sit again?

Upon call by the President for the report of the committee on Bill of Rights,—

Mr. Owen: Whatever may be done with this report at this time, I ask leave at least to call attention to a couple of errors, and ask that it be corrected. First, in line 65 of the report, the word "imperilling" should be stricken out and the word "impairing" inserted. And in the next line, the word "working," and the word "making" inserted in its place.

Mr. Moody: It is evidently an error of the printer.

The corrections will be made unless I hear an objection. The chair hears no objection; the corrections may be entered.

Upon call by the President, of the report of the committee upon Corporations other than Banking and Municipal, Mr. Ward, of Hughes, responded: "We are ready to take up this report, although I do not wish to urge this if the members are not ready for it."

By the President: I am informed by the Secretary that they have not been distributed to the members.

The President called for the report of the committee upon Congressional and Legislative Apportionment.

Mr. Lichtenwallner: I believe the report from this committee was placed on file this morning. I desire to give notice that a minority report of this committee will be submitted tomorrow morning.

Report of the committee on Military Affairs being reached, on motion the Convention resolved itself into the Committee of the Whole, for its consideration.

Committee of the Whole

Mr. Owen, of Kingsbury, was by the President called to the chair.

On motion of Mr. Brookings, the committee proceeded to consider the report, section by section.

Section one is read by the Secretary and was duly recommended to the house for adoption.

Section 2 is read by the Secretary.

Mr. Dow: Mr. Chairman, I would suggest, to save time, that the rule be adopted by the Committee of the Whole, that where there is no amendment proposed, the Chair will simply say, "We will report back without amendment." It is not necessary to have a motion to adopt; I can't see that it is necessary to adopt in committee of the whole any of these sections. If we do not wish to amend it can simply be reported back by the Chairman.

Mr. Gehon: I move to strike out all of the section commencing at the word "and" in the eleventh line.

Seconded.

Mr. Coffin: If we are going to have a Militia it should be worth something, and should be of some service; there is no way of making it efficient only by drill, and that as every soldier knows cannot be done unless they are assembeld—or at least some time spent in drill and discipline; it would be a farce to go to the expense of equipping and drilling a Militia scattered over the territory and never require them to come together for drill and discipline. Either let us have no Militia at all outside of the volunteers or let us have something of stability and usefulness. I shall oppose the striking out of the clause. Let us have some means provided by which they can be got together at a suitable time and place for organized drill and discipline to give them some absolute organization.

Mr. Lowthian: You will notice by this section that it provides that the Legislature shall provide by law for the enrollment, uniforming, and discipline of the Militia; and in a later section it tells how they shall do it. It is a matter purely Legislative. I favor the motion to strike it out.

Mr. Kellam: The question with me is not so much whether it is desirable that the Militia shall have a regular meeting for drill and discipline but whether it is properly in the constitution; whether it is desirable or proper to place into the Constitution all these details as to discipline of the Militia.

Now, I certainly shall favor the amendment of the gentleman, to strike out unless the committee who have made the report can give us, or at least me, some information of the necessity for its going into the Constitution that I cannot now see. It looks to me to be purely and only a matter of detail that should be left to the Legislature; purely and solely a matter of Legislative direction; should be left to the Legislature. With this view, I should favor the striking out as stated in the motion, unless, as I say, and very likely the committee may have some information of the necessity of its being left in the Constitution.

Mr. Williams, of Hand: There might be an emergency when it would be desirable for the militia to drill more than four days a year, hence I am in favor of leaving it to the discretion of the Legislature.

Mr. Neill: I agree heartily with these views spoken in favor of striking out this clause. I should agree with them still further if they should move to strike out all the rest of the chapter, for the reason there is a provision or section authorizing and directing the Legislature to provide for all these details that is prescribed in these three or four sections that follow. I think it is entirely unnecessary to make statutory provision in the Constitution in a matter of this kind. I am heartily in favor, not only of striking out as suggested in the amendment, but all of the rest of it.

Mr. Taylor, of Lincoln: Before that question is put, I deem it proper as chairman of the committee to propose, in view of the question put by the two gentlemen and spoken upon by several, I think it would be very desirable to have the section go through as reported by the committee. I can assure this Convention that this committee had this subject under very mature consideration, and that before reporting this bill, we did not slight our work at all, but only after considerable consideration and research and also consultation of authorities upon this subject.

I will say, gentlemen, that so far as the section, or the words that are desired stricken out, it will materially aid and assist and make effective the militia if we are to have one, to have an annual drill and camp of instruction, and without it the militia will be not nearly as effective and I find upon looking up this subject in the authorities, the charters and constitutions of the various states of the Union, that in a majority of them they have embodied this section in their constitutions.

I find in the Bill of Rights, Section 16, line 82 and 93, as reported by that committee, ample protection and provision with regard to this subject generally. I find in the official Constitution, the Constitution of the United States, on pages 16 and 21, provisions with regard to this subject of the militia. Without taking the time to enumerate the various pages, for the convenience of any gentleman who has any doubts upon this subject, I have made a brief of the various pages in the various states, including the United States. I could name several states who have adopted a military bill that is in harmony with this one reported by this committee. I will say to you, gentlemen, I have had the honor of having been appointed Inspector of Militia of this part of the Territory and have just returned from the performance of that duty. I have found the militia active, patriotic, and at work in the organization. They are to go into camp of instruction on the 22nd of this month at Fargo.

I will say, further, that while the Legislature has appropriated a sum to provide for these expenses, it is a mere bagatelle to the amount that is expended by the men themselves. I have taken pains to obtain some statistics on the subject, and I find that the Legislature has appropriated for the coming two years a sum, I think, of twenty thousand dollars, which will never be required of them again, for that was the first appropriation; and it was necessary in order to put the organization upon its feet that the men forming these companies have expended eighty thousand dollars out of their own private means to put the militia of the Territory of Dakota upon its feet. I say to you, gentlemen, that they ought to be encouraged. I say again that so far as a camp of instruction and drill is concerned, that it is the practice and the law of the various states of this Union for the militia to assemble in camp of instruction each year, and from two to four days is the usual time I hope that the Convention will leave that section which has been reported by the committee, deeming it for the best interests of the militia organization, if we are to have one. So far as the matter being compulsory with the Legislature is concerned the reason the committee have adopted the language found incorporated in Sections two and three and recommend that it become a part of the Constitution, is that they have thought it proper to go through, so that it shall not be subject to the will of future Legislatures to destroy this militia organization which the Territory has now put upon its feet and gone to this expense to put the organization upon its feet, and as I say, the different members having expended the amount of money that I have named, out of their private funds, for that purpose, it would overturn all of that work. For that reason, I hope the Convention will adopt the section as reported

Mr. Neill of Grant: As an amendment to the amendment, I move you Sir, that all of this section, beginning with line eleven, to the end of the article, be stricken out.

By the Chair: The Chair does not distinctly understand the motion. Is it to strike out the rest of the article?

Mr. Neill, of Grant: Yes, Sir, beginning with line eleven, to the end.

By the Chair: The Chair is under the impression that there is nothing before us except Section 2, and that motions should be at this time confined to Section 2

Mr. More of Beadle: I hope Mr. President, that this section will be preserved entire. If we are to have a militia it should be efficient; it cannot be efficient without drill. The Legislature ought to provide that they may be assembled and drilled. If we do not need a militia at all, then strike out of the section all that the gentleman proposes to strike out. I think, however, that the Convention will be slow to come to such a conclusion as that We have had some experience of the necessity and of the value of a militia organization The memory of many of these men here present goes back fully twenty, twenty-five and thirty years. We do not want a large standing army maintained in this country, and yet we must have some organization that in an emergency may be called and may be able to render us efficient service. We devoutly hope those emergencies may never come, yet who can look into the future and say what is to come? Let us then prepare, not by an immense standing army, but by the militia, letting yeomen, who have the privilege, by the constitution, have the privilege of bearing arms; not as an instrument of aggression, but an instrument of defense. Upon what in the future it may be necessary to depend we can not tell, but this I think may be safely said, that the nation that leaves itself and its people unprepared for the emergencies to which I allude invites those very things. We do not want to invite encroachment; we do not want to be in the position to invite such times as we have seen in the past, but we want to be ready. The people can be trusted to defend us, but to defend us efficiently the yeomenry must be drilled. Let us have this section and let us have every other section of the article, and then let us have such legislation as may be necessary to give us an efficient, thoroughly drilled militia.

Mr. Huntley, of Jerauld: As I understand the objection that the gentleman has to this report, it is that we have made the Legislature enact these things, not that he attacks the subject matter of anything that should be done. It is perfectly legitimate; it devolves upon this body to determine what should be put into the Constitution. I think that with the same force of argument the gentleman can say that this whole subject might be controlled by the Legislature and that there is absolutely no need in the Constitution for anything whatever on the matter, but, if that is the view of the gentleman, why was the committee organized to bring in a report upon this subject? And as we have examined constitutions and studied the subject of militia, we find that the tendency of all the new constitutions that have been adopted and the old ones that have been improved, is to make an outline of the work more complete and more definite, and the constitution of the state of Pennsylvania has limited more perfectly and indicated more clearly what the Legislature shall do and shall not do. It was having this in mind that we presented here a full report of things that it seemed to us proper and legitimate to come in the Constitution, and after carefully studying that subject, and after counsel with those familiar with these subjects, we have brought in this report. We have submitted nothing to this Convention but that which in our best judgment would improve and bring into the Constitution a rather wholesome, just and beneficial article, to the Legislature itself and to the whole state. I hope it will be adopted.

Mr. Wright, of Brookings: Mr. Chairman, if we desire a militia organization at all it should be an efficient one. I shall feel constrained to vote to strike out all that occurs in Section 2, beginning with line 11, "and the said militia organization shall be required to assemble in camp of instruction and drill not less than two or more than four days annually." I think that no militia can be drilled efficiently in four days. I think that the section 2 down to line eleven makes all necessary provision, and the Legislature will thus be enabled to fix the time which shall be necessary for the militia to remain in camp, under instruction. If it should be deemed necessary that they remain more than two days they can do so, or more than four days they can do so; while under this provision they can remain, under the most urgent and pressing circumstances, only four days. Therefore I feel that I am required to support the motion striking out after line eleven.

Mr. Miller, of Hughes: I move as an amendment, that in Section 2 and line seven the words "uniforming" and "equipment" be stricken out.

Mr. Dow, of Brown I move that the committee now rise, and ask leave to sit again.

Mr. Brookings, of Minnehaha: O, let us dispose of this.

By the Chair: The question will be upon the amendment.

Mr. Moody, of Lawrence: Does the Chair entertain the motion of the gentleman to strike out the words "uniforming" and "equipment?"

By the Chair: No; there was no second.

Mr. Dollard, of Bon Homme: Mr. Chairman, it seems to me that this section is radically wrong. It makes it obligatory on the Legislature to provide for the militia. It occurs to me that if that word "shall" was stricken out and "may" inserted in its stead, perhaps much of the discussion that is being had on this section might be obviated. However, we are not considering that branch of the question, and I will leave that. But as to the wisdom of confining the legislation upon this subject within the limits of this constitution, as it stands in this report. We have heard something about the efficiency of the militia twenty or twenty-five years ago—twenty-four years ago, we will say—and heard witnesses to its efficiency, and that therefore there is necessity for a provision of this character. Well, I happened to be a member of that militia. I wish the Chair could have seen it; I wish the Convention could have seen it. I do not think they would offer it as an example or the purpose of showing the necessity of a militia of this character. I have no objection to the militia; I have no objection to authorizing the Legislature to provide for the militia, but I do object to making it obligatory upon the Legislature to provide for it in every particular, because it might be possible that we would wake up in the course of our existence and find ourselves, like Sinbad the Sailor, with the old man on his back; with something upon our back that we could not rid ourselves of.

Mr. Gehon, of Lincoln: Mr. Chairman, I am like the gentleman over there; I have had experience in militia matters. This is not only taking upon ourselves the functions of the Legislature, but it is going to entail a heavy expense upon the people if these provisions are carried out, that we will try to get rid of hereafter and can't do it.

Mr. Moody, of Lawrence: I do not intend to enter into this discussion, but I do think that the efficiency of the militia, as it is termed, certainly should be provided for by the legislature of any commonwealth. Now, I happen to remember somewhat of the effect of the maintenance of militia organizations prior to the celebrated war that has passed into history, and I remember very distinctly that those volunteer organizations that were armed and equipped and drilled, that had been in camps of instruction, that had voluntarily subjected themselves to the discipline of arms, were the organizations which furnished your non-commissioned officers, and officers during the war, largely. And I mean this nation; I mean these people who supported the Union of the States, were forced almost instantly to take up arms; and it was because of those volunteer organizations that existed about the country that made success even from the commencement possible. Now, I am not disposed to vote for this section, and I am disposed to vote for the proposition of the gentleman from Grant to strike it out, because I think it limits the efficiency of the volunteer force, instead of aiding it. I would leave it entirely with the Legislature; I would not limit them in their power; I wouldn't say, 'You shall compel these volunteer organizations, these volunteer companies, to assemble in camp and remain there but four days." Why, I would rather direct that they should remain there at least thirty days during the year.

Now, I am decidedly opposed to that species of organization that we witnessed when we were boys in the eastern states; when, upon general training day, there was assembled not only the militia, but all the men and women and children of the country, who had a good time, eating ginger-bread and drinking cider, and something stronger among the officers. We remember with what hilarity those occasions were ushered in. We remember how we looked forward to general training day, when we could have a high, good old time. And we remember many ludicrous scenes that occurred; we remember of the banquet that we attended; we remember the scenes that occurred at those banquets, and we want none of it. We have passed beyond, in this country, that sort of military training and military education. But the establishment of military schools throughout the states; the maintenance of that school at West Point, so important to be maintained; adjuncts which surround these schools; their equipment, their uniforming, their arming; their instruction, their drill; all that is as important to the maintenance of the liberties of this country as anything that is within the power of man. We can not expect by the Quaker policy to maintain the laws or the freedom of this people.

Now, I may say that I am sorry I was led into this discussion; I was led into it because I am opposed to anything which will in anywise tend to lower the efficiency of that portion of the militia which in time of peace chooses voluntarily to organize, uniform and equip. Therefore I am in favor of striking out this proposition and leaving all the rest intact. I see nothing in it—

By the Chair: The question before the house is upon the adoption of the clause, "And the said militia shall be required to assemble in camp for instructions and drill, not less than two nor more than four days." As many as are in favor of the amendment will please say Aye.

The amendment was lost.

Mr. McCallum I move to insert in Section 2, in the line immediately following the word "service," the following words: "Provided, that not more than 2,000 men shall be thus armed and equipped in times of peace."

Mr. Moody: You might put in 10,000 in times of riot.

Mr. Fisher: I move to strike out the word "shall," in the sixth line, and insert the word "may."

Mr. Haines: I oppose this "shall" and this "may," as it is no part of this Constitution, and we should not lumber up these laws by provisions of that kind.

Mr. Brookings: I hope we shall leave this matter to the Legislature.

Mr. Moody: Leave it to the United States to preserve order.

Mr. Brookings: I think we could do just as well and leave it to the Legislature.

Mr. Walton: It seems in the 9th line that the United States shall protect the state.

Mr. Taylor: If the gentleman from Turner will take the trouble to examine the various constitutions he will find in all of them the word "shall," and in none of them the word "may." If you do, you will leave the word "shall" there.

The motion was seconded, put and carried.

Mr. Moody: Now, if it is in order, I will move the adoption of Sections 2, 3, 4, 5. I move the adoption of Sections 2, 3, 4, 5, and 7.

Motion seconded.

Mr. Walton: In Section 7, I wish to amend by having "Providing that such shall pay an equivalent for said exemptions." My object is to amend.

By the Chair: The Chair would state the gentleman does not understand the motion. The question is upon the motion of the gentleman from Lawrence.

Delegate: I am opposed to the motion. First, because Section 3 is entirely useless. It says that the Legislature, in providing for the organization of militia, shall as near as possible conform to the regulations of the United States, and they can not do otherwise. The Constitution of the United States says so. The regulations introduced in the state militia shall conform to the regulations of the United States. All that is entirely unnecessary. It amounts to nothing by putting it in or leaving it out. It will have the same result as if introduced. And there is no use only inserting a form of article that we adopted by conforming to the Constitution of the United States. And I can see no reason why they should be introduced.

Then take Section 1. "All militia officers shall be commissioned by the Governor, and shall hold their commissions for such time as the Legislature may provide." Let that be in the hands of the Legislature. Then Section 5, as provided for by the Constitution of the United States, is entirely useless. This is all simply legislation, and should be stricken out entirely.

Mr. Stone: Do I understand that we are considering Sections 3, 4, 5, 6 and 7?

The Chair: Sections 2, 3, 4, 5 and 7.

Mr. Brookings: I move that Section 3 be stricken out.

Mr. Moody: I rise to a point of order. That motion is not germain to the question now before the house.

By the Chair: The Chair should state that there is no second to that motion offered by the gentleman.

Mr. Moody: Then, of course, it is germain to strike out because that is an amendment to the motion, and was that seconded?

By the Chair: That was seconded.

Mr. Moody: It seems to me that these provisions are all perfectly proper. Supposing there are certain provisions in the Constitution of the United States, and we conform our Constitution to the Constitution of the United fltates; certainly, I can see no reason why these provisions should not be maintained in our Constitution—all of them. Section 5 certainly is an express direction to the Legislature, with reference to that Legislature.

Mr. Moody: Section 7 certainly will not be in force unless it is enacted, because there is no rule of law which recognizes an exemption of that character unless these other statutes or organic laws are exempt, and in this Territory I am decidedly in favor of that sort of exemption. There are in this Territory those, I may say, who are conscientiously opposed to bearing arms in times of peace, and these people I should exempt. Why, take it altogether, this provision is well enough.

A Member; The children become slightly familiar with our laws by coming in contact with them in their school books. The Constitution of the state will be published in the school books and it seems objectionable that anything should be left out.

By the Chair: The question before the Convention is a motion to strike out Section 3.

A vote is taken and the Chair is in doubt, whereupon a division is called for.

The motion is lost.

Mr. Williams: I can not see any good reason why any man should be compelled to do military duty in times of peace, and I move to strike out the words "having conscientious scruples," so it will read, "no person shall be compelled to do military duty in times of peace.

The motion is voted upon and lost.

By the Chair: The question recurrs on the original motion, which is to adopt Sections 2, 3, 4 5 and 7 as amended.

The motion is carried They are adopted.

Mr. Moody: I move to strike out the word "properly," and for the word "militia," substitute the word "military," in the 26th line and move to adopt the section.

The motion is seconded and carried.

By the Chair: The gentleman from Yankton made a motion to adopt the report. Is there a second to the motion?

Voice: Yes.

The motion is voted upon and carried.

Mr. Miller: I now renew my motion, that the committee rise and report.

By the Chair: Will the gentleman consent to hear the other motion read?

Secretary reads Section 8.

Mr. Proudfoot: I propose to make this report so strong that it will be almost impossible to have the military called out on every pretext.

By the Chair: The Chair is in doubt whether it is in order after the report has been made and adopted but if there is no objection the Chair will take it.

Mr. Moody: What is the motion?

Secretary reads Section 8 again.

Mr. Moody: It says to call forth. What other power is necessary to enforce the laws?

Mr. Kellam: I object to the motion, simply because I think the section should stand on its merits.

By the Chair: The Chair will state that if the objection is made he is of the impression that it cannot be considered.

Mr. Miller. I now renew my motion that the Committee of the Whole report the Military Affairs back to the Convention and recommend that it pass. (Carried.)

Convention

The President took the chair.

Mr. Owen: The Committee of the Whole on Military Affairs respectfully report to the Convention, and recommend the adoption of its report as amended; the Secretary has it in his hands.

The Secretary reads the military report as amended.

Mr. Moody I move its adoption.

The motion is seconded.

Mr. Tousley: I move that the Convention adjourn until noon Thursday to give the members an opportunity to attend the Fair (Laughter)

Mr. Hanson: Unless there has been an adoption of this report I move to amend Section 6 by inserting the word "military" for "militia."

Division is called for, whereupon the question is put to a rising vote and the motion carried

Mr. Moody: I move the report be referred to the committee on Engrossment and Enrollment.

Seconded.

Mr. Lichtenwallner I rise to a point of order. I do not think the report has been adopted.

Mr Moody: Not refer a proposed article of the Constitution?

Mr. Owen: Before the adoption?

Mr. Moody: I move that the report be adopted.

By the President: That motion has been before the house for some time. It is moved the report be adopted as amended.

Which motion prevailed.

Mr. Taylor: I move we do now adjourn.

Mr. Moody: I submit my motion to refer to the Engrossment and Enrollment Committee.

By the President: That will be taken as the sense of the Convention, unless objection is made.

Mr. Ashton: I move that we adjourn until four o'clock.

No second.

Mr. Taylor I renew my motion to adjourn.

Which motion prevailed.

NINTH DAY

Sept. 16, 1885.

Convention was called to order by the President, at 10:10, and prayer was offered by Rev. A. Jamison, as follows:

Let us pray.

Prayer

Our Father and our God, we come again to seek Thy face and Thy favor. We come thanking Thee for the care Thou hast had over us, in that Thou hast been mindful of our wants; that Thou hast preserved us in health; Thou hast kept at bay the disease and dangers which have threatened, and by Thy providential care we have been preserved to this hour. We thank Thee, too, Heavenly Father, for Thy sustaining grace, that amid the temptations incident to human life, amid the exposures of this world, that Thou hast preserved us unblameable in grace. We come, again, gratefully acknowledging Thy good hand upon us, in all the ways Thou hast led us, in all the blessings Thou hast crowned our lives. And now Gracious Father, we pray that the mercy and the love of the past may continue; that Thy providential care may still be over us, and may we be guided in all the future as we have been in the past.

We pray for special wisdom to fit us for the duties that are upon us. We realize that our native strength, and our native wisdom, is insufficient. Oh God, Thou who hast promised to give grace to those who seek it, Thou who hast said, "If any man lack wisdom, let him ask of Me, who givest to all men liberally and upbraideth not, and it shall be given to him." We seek at Thy hand that wisdom and that strength this day, that will fit us for the duties of the hour.

Guide us and bless us as individuals; bless the various families represented here. Be Thou near to the homes and hearts of the loved ones who have been left behind, and guide us, Oh God, in all the future, and ultimately when we have finished our labors on earth, may we hear Thee say to us, "Well done, good and faithful servants, thou hast been faithluf over a few things, I will make thee master over many things; enter thou into the joy of thy Lord." And while thus blessing our hearts, the praise and glory shall be Thine forever. AMEN.

Secretary proceeded to read the journal of yesterday.

Mr. Lichtenwallner: I move that the reading of this letter from Chicago, as printed in the journal, be dispensed with.

By the President: That will be the order unless objection is made. The Chair hears no objection. The Secretary will omit the reading of the letter.

The journal of the eighth day is approved by the Convention as read by the Secretary.

A communication from Rev. Wm. H. Hare was read to the Convention, extending an invitation to the members to attend the dedicatory services of the All Saints School, of this city, on Thursday, September 17.

Mr. Ward, of Yankton, offered a resolution (on file) which was duly adopted by the Convention, extending the thanks of the Convention for the courtesy shown by Mr. Hare

Mr. Moody of Lawrence: Mr. President, there is no report from the committee on Rules and Order of Business' this morning. The next committee in order, I believe, is the Judiciary I present a report from that committee, and ask leave of the Chair to read it myself; it will relieve the Secretary, and perhaps I can read it so the Convention can hear it.

By the President There is no objection.

Mr. Moody here read the report from Judiciary Committee giving their opinion on a certain proposition which had been referred to them by the Convention in the form of a resolution (On file with Secretary.)

Mr. Kanouse, of Sanborn: I move the suspension of rules interfering, and that this report be at once adopted.

Seconded.

By the President: It does not at this moment appear to me necessary to adopt the report; it was sent to them as lawyers, as a mere legal proposition—

Mr. Moody, of Lawrence: I suppose that would be merely the Convention's endorsing the same opinion, that is all. It would be an expression of the sentiment of the Convention that such was the law, which would not be improper.

Mr. Dow, of Brown: I move, as an amendment of the motion, that the Convention accept the report. I do not see the object of adopting it if we have simply submitted it to that committee in the form of an inquiry.

Mr. Kanouse, of Sanborn: My object is that it may become not the mere opinion of the Judiciary Committee, but the verdict of the Convention upon this question, so that it may go out before the people and before any tribunal before which this question may in the future arise, as the unanimous conclusion of the Convention.

By the President: The proposition is that the conclusion of the Judiciary Committee is the proper construction of the law, in the opinion of the Convention.

Mr. Moody, of Lawrence: I think the motion of Mr. Kanouse is perfectly correct; it shows simply the concurrence of the Convention in the report.

Mr. Owen, of Kingsbury: That is the very language of the mover: "Moved that the Convention concur in the report."

Mr. Kanouse, of Sanborn: If there be a shadow of difference between the motion as amended and the motion as I originally put it, I accept it and move to "concur." (Laughter.)

Mr. Ward, of Yankton: Why can't we accept it and adopt it?

By the President: I will put the motion, although I will say to the chairman of the Judiciary Committee that it is a novel proposition to me, in all my legislative experience, that when the judiciary committee is inquired of by a legislative assembly as to their opinion, that the legislative assembly should say that the opinion was a correct one. (Laughter.)

The motion being submitted to the Convention's vote, was by the President declared carried.

By the President: The Convention concurs in the idea of the Judiciary Committee.

Mr. Reed, of Sully: Your committee on Revenue and Finance submit the following report. (On file with Secretary.)

Mr. McCallum, of Beadle: Mr. President, are you calling the list of standing committees?

By the President: We are now receiving the reports of the standing committees, not the consideration of their reports.

Mr. More, of Beadle: I desire to offer a report on behalf of the committee on Education and School Lands. (On file.)

Mr. McCallum, of Beadle: I have a minority report from the committee on Elections and Right of Suffrage. (On file.)

Mr. Brookings, of Minnehaha: The committee on Compensation of Public Officers are ready to submit their report. (On file.)

Mr. Westfall, of Codington: I submit the report of the Committee on Elections and Right of Suffrage. (On file.)

Mr. Beebe, of Minnehaha: The committee on Banking and Currency are prepared to submit their report. (On file.)

Mr. Dow, of Brown: Committee on Amendments and Revision of the Constitution beg leave to report. (On file.)

Under the head of presentations and resolutions, a resolution was read providing for a Commissioner of School Lands, for the state.

Mr. Moody, of Lawrence: I move that the resolution reported by the committee on Education and School Lands be adopted by this Convention. (Seconded.)

Mr. Kellam, of Brule: I do not know how that may be done by the Convention, but the wise policy, in my opinion, is to refer such propositions as that to standing committees of this Convention. I would prefer that that report go to the committee on Executive and Administrative Department of the Constitution, and let them give the matter such consideration as they think wise, and report the resolution back to the Convention. I only suggest that because it seems to me to be the best way to dispose of it.

Mr. Moody, of Lawrence: In view of the suggestion of the chairman of the Executive and Administrative Committee, which I think very proper indeed, I withdraw my motion for the adoption of the resolution and move that it go to the committee at once.

By the President: It will go to that committee under the rules.

Mr. Moody, of Lawrence: I will ask consideration of a resolution which does not relate to the Constitution, but it seems to me quite important; a resolution quite important if adopted by this Convention proper. I ask consent that the resolution be offered now.

By the President: I hear no objections.

Mr. Moody offered a resolution instructing the Sergeant-at-Arms to furnish to each of the reporters of newspapers attending this Convention a copy of the printed reports and proceedings, etc. (On file with Secretary.)

Mr. Moody, of Lawrence: I offer this resolution because I understand the Chair has been appealed to, and suggested this resolution. There seems to be some misunderstanding, and it is quite important to this Convention that gentlemen representing the public press shall properly be advised of the proceedings of the Convention, and it is but proper that they should have the printed official proceedings to furnish to their newspapers.

The resolution was adopted.

Mr. Dollard, of Bon Homme: Mr. Chairman, I have a resolution which I am instructed to offer to the Convention, and I now desire to present it. I understand that it is suggested by one of the few. (On file.)

The resolution provides that no member of this Convention provided for in the Constitution until the expiration of the first term of office of the Legislature shall be eligible to any office.

A Member: I am instructed to offer a resolution regarding the bill of rights.

By the President: It will go to the Bill of Rights.

(On file with Secretary.)

Mr. Gifford offered a resolution that no member of this Convention shall speak more than five minutes. (On file.)

Referred to the committee on Rules.

Mr. Schultz offered the following resolution:

Resolved, That the electors of this state shall reside in the state one year. (On file.)

Referred to the committee on Election and Right of Suffrage.

Mr. McCallum: We have almost the same thing in another report.

Mr. Maynard offered a resolution fixing the minimum price of land per acre. (On file.)

Referred to the committee on Education and School Lands.

Mr. Oaks offered the following:

Resolved, That the general assembly shall not have power to change the location of the seat of government. (On file.)

Referred to the committee on Boundaries and Seat of Government.

Mr. Moody: It is my misfortune to be in the position that I have to weary the patience of the Chair and the Convention with reference to details. I have a resolution to offer which does not relate to the Constitution, direct, but to the business of this Convention, and it is quite important. It relates to the expenses of this Convention, and I offer the following resolution. (On file.)

Resolved, that the stenographers strike, or eliminate from their transcript all such reports, petitions and other documents as appear in the journal of the Convention, referring to such reports, petitions, etc., in such a way that they can be traced, by giving in substance the petition, etc., or such portion of it as will make it intelligible; and that they be allowed but one transcript of their notes, they shall be paid for but one, and that such transcript shall be placed in the hands of the proper persons, and remain in their custody. There seems to be some mistake, as I understand from two of the stenographers that they are putting in their transcript such portions of the proceedings as are of a documentary character, and which appear in the journal. It is not necessary to duplicate this, but if they are referred to in the stenographic notes, and in the future their transcript should be printed, one can easily make up from the journal and their notes a complete photographic history of the proceedings of this Convention, but the expense of printing the same matter in full in the journal and their transcript is unnecessary. I am advised by two of the stenographers that if they continue copying in their transcript all these documents it will be impossible for them to conclude their labors at the time the Convention closes its session. The question, gentlemen, is one of expense, and I as a member of this Convention, or as a member of a committee, am unwilling to incur any unnecessary expense; and I have an understanding with two of the stenographers that this is perfectly satisfactory, that this elimination shall be made, and all that they ask is the payment of one transcript of the proceedings and debates, exclusive of these documents that go into the journal. If they are simply to sit here and take notes, they might as well put the proceedings of this Convention in hieroglyphics which nobody could read, and I question if when two years have passed the stenographers can read their notes, therefore it is quite important that the transcript should be made at this time and at as little expense as possible. Therefore, to make it satisfactory to the stenographers, the lady and the gentlemen, I have offered this resolution.

(Adopted.)

Mr. Weatherwax offered a resolution regarding the sale of one-fourth of the school lands, which resolution shall become an article as soon as we become a state. (On file.)

Referred to committee on Education and School Lands.

By the President: The report of the standing committees. Committee on Judiciary.

Mr. Moody: I am informed that the report of the Judiciary Committee has been printed, but I am not fortunate enough to receive a copy; have you?

By the President: I am informed by the Secretary that no printed copies have been sent here yet.

By the President: Executive and Administrative report.

Mr. Brookings: A motion has been made that the members have one day to read over the bills when printed If so, are there not two bills that were reported yesterday, the Apportionment bill and Bill of Rights. Could we not take up those, and these other bills will, I think, be printed today, and can be taken up at another time.

By the President; Do I understand the gentleman to move that the Convention go into Committee of the Whole for the consideration of the Legislative bill?

Mr. Brookings: Yes, sir. (Carried.)

Mr. Miller is called to the chair.

Committee of the Whole

Report of Legislative Committee beginning with Section 5.

Secretary reads Section 5.

By the Chair: Section 5 of the report of the Legislative committee has been read and is now before you.

Mr. Ward, of Hughes: Do I understand that Section 4 has been acted upon by this committee?

By the Chairman: I was so informed.

Mr. Ward, of Hughes: It was before the Committee of the Whole and was pending when we adjourned.

Mr. Ward, of Hughes: Is there a provision made for the enumeration of counties now in organization and those now being organized.

Mr. Corson: The language used in this section, Section 4, is that used in nearly every constitution and is proper. We have a census taken every ten years by United States officials. It is provided here that in the year 1895 a census shall also be taken. There are two provided for in ten years, and certainly that is enough, and I do not think it wise to subject the state to any unnecessary expense, and I am opposed to striking out any portion of it.

Mr. Neill: It seems to me that the rapid growth of our Territory would admit that the apportionment be made more frequently than once in five years. In fact, apportionment every two or three years would not be too much in a new state where the population develops so much faster than it does in the east. To give the increasing population of the west its due, the Legislature for the next twenty or twenty-five years it would be necessary that the apportionment be made at the close of every Legislature, and for that reason I believe in striking out that portion of the section. It should be something that will guarantee more than that passage would give us.

A Member: I do not believe that it is for the best interests of this people to make these changes. I think once in five years will be sufficient if we are admitted under this Constitution.

Mr. Cranmer, of Edmunds: In the amendment of yesterday we struck out the word "shall" and inserted the word "may," so that the Legislature may order the census taken once in every ten years. If it choose not to do so it can pass it over, and the clause below provides that they cannot do it at any other time; they may once in ten years, but not at any other time.

Mr Wright: I move that the words "but at no other time" be stricken from the line.

Mr. Kanouse I suggest the restoration of the word "shall" to section 4.

Mr. Kanouse: I offer this (indicating) as an amendment to Section 4.

By the Chair: There is already an amendment offered to Section 4, to strike out the words in the 37th line, "but at no other time."

Mr. Kanouse: I offer this as an amendment to the amendment.

Mr. Owen: I ask that the amendment be read.

Mr. Kellam: I do not quite understand the substitute offered by the gentleman from Sanborn. But I am very clearly of the opinion that these words should not be stricken out unless a substitute is put in their place.

This amendment does not cover the ground we ought to arrive at in the adoption of this section. My attention has been called to it by hearing the remarks of a gentleman here asking whether yesterday we substituted the word "may" for "shall" in the first line. If we did, I am very clearly of the opinion we made a mistake; the word "shall" ought to be restored. Of course, we understand it is the design of the Constitution to limit the power of the Legislature. The Legislature has full power to do just what we have provided for in the amended section; the section is designed to limit the power of the Legislature.

I am from one of the counties that it is suggested will suffer if an enumeration and apportionment is not taken. I regard it a greater danger, if when the Legislature meets it shall be allowed to provide by law for a re-enumeration and a re-apportionment of the state. I believe that would be much the greater danger to the state than to allow a few western counties to remain a year or two without their equitable and fair representation in the Legislature.

I believe it will not be safe to strike out these words, "but at no other time," and leave the next Legislature to provide a new apportionment just as the interest of the political party dominant may require. I think there would be danger to the state. I think this Constitution should limit the power of the Legislature in that respect; that we should at once restore the word "shall." That is my personal feeling—that no section of this Constitution, guarding anything of this importance, should provide the word "may" instead of "shall." The Constitution is intended to limit the powers of the Legislature.

I am in favor of the substitute offered by Mr. Kanouse; am in favor of leaving the words in. I am also greatly in favor of restoring the word "shall" for "may."

Mr. Brookings: If you read this section carefully, the words, "but at no other time," relates only to the taking of the census, it does not relate to an apportionment. You see it is a full stop. After that period there comes—

Voices from different parts of the House: There is no period there.

Mr. Brookings: As far as the words "may" and "shall" are concerned, you can easily put in the word "shall;" you can compel the Legislature, really, to provide for that census. If they choose to do it they can; if they do not choose to do it, they need not do it. In the case of New York, I think they have a provision of that kind, but they did not take a census this year. There was a little feeling between the Governor and the Legislature, who vetoed a bill passed by them. Suppose the Legislature did not see fit to provide for a census; it would not be taken. Consequently, although I moved to strike out that word "shall" and put in the word "may," I am well satisfied now that it makes no material difference whether it is "may" or "shall." If the Legislature in the future years find out that there was no necessity to take an enumeration, and that it is a large expense and that they were under no obligation to take it, it would not be taken. Of course, I rose upon the question of the period.

By the Chairman: The Chair rules the motion of the gentleman from Minnehaha out of order, on the ground, the question before the house is an amendment to the amendment.

A Member: If I understand the amendment of Mr. Kanouse, it is to make a confliction after we pass it. He calls this portion of the Constitution an amendment to an amendment, exactly; if we pass it then we must vote it down or else strike it out. If I understand it right, we must vote down the amendment as amended, and if it is amended we will either have to vote his amendment down or strike out this clause, which we do not want to do.

Mr. Conniff: I would like to hear the amendment read.

Secretary reads the amendment offered by Mr. Kanouse, of Sanborn.

Mr. Owen: There is a number of points with which we are not satisfied in this section; we have discussed them; we have been picking at them; our views have been expressed, and if any gentleman desires still further to express his opinions, I will waive the motion I desire to offer. What I desire to offer is this, a motion to refer Section 4 back to the committee for revision.

Seconded.

Mr. Kellam I would ask if it would be within the power of the Committee of the Whole to refer a question to the standing committee of the house?

The Chairman: The Chair is of the opinion that this Committee can only report back to the Convention, this decision. Then the Convention has the power to refer it back to the committee.

Mr. Owen: My language was not very happily chosen, evidently. I move that we postpone further consideration of this section at present, and recommend to the house that it be referred back to the committee with whom it originated.

Which motion was duly seconded and prevailed as the will of the Convention.

Mr. Kellam: I would like to inquire for information of the chairman of the committee of the Legislative department if this section originated with the committee, or if it is taken from some other constitution, in that language. The question is whether the language is sufficiently clear and connected or not. I think perhaps the language ought to be carefully examined, if it did not originate with some constitution where it has stood the test of time.

Mr. Kanouse: I will say that my memory is not clear as to whether this was taken bodily from any other constitution. My impression is that it was taken from the Pennsylvania constitution verbatim.

Mr. Britton: I have here the constitution of the state of Iowa, which has the same or a similar provision.

Mr. Kellam: About the same may be entirely objectionable.

Mr. Britton: It is almost the same. If the gentleman wishes I will read it. (Reads from the Iowa constitution.)

Mr. Kellam, of Brule: Well, I didn't mean by my objection that there is any positive objection to it, but it occurs to me that it is a little unguarded. Now, it provides that no person who has been convicted of any of these crimes or offenses—that language is easily understood and is evidence of ineligibility; but when it says "who shall not have accounted for and paid over, according to law, all such moneys due from him," it seems to me to be a little loose.

Mr. Owen, of Kingsbury: I have the constitution of the state of Illinois, 1870, and I find the words identically the same, except the last clause of the section in the constitution of the state of Illinois, reads thus: "Shall be eligible to the general assembly or to any office of trust in this state." In all other respects they are identically the same.

Mr. Stone, of Potter: It seems to me that according to the wording here there is no provision made for a subsequent pardon. An innocent person who has once been convicted of a crime and subsequently pardoned would still come under this provision as ineligible.

Mr. Kanouse: I suppose that the gentlemen of the Convention are well aware that there are various committees appointed, to whom was referred various divisions of this Constitution, to frame. This Legislative Committee has not undertaken to trespass upon the grounds to be covered by the executive committee, and that committee will doubtless provide for pardons and the resulting effect of pardons. We did not consider it within the province of our committee to provide for a contingency of that sort. As the section now stands, traced home to the constitution of Illinois, after having been thoroughly considered by the Legislative Committee, whose report is now under consideration, I can see no ambiguity whatever as to the intent of the section. I have looked at it in view of the objection raised by Mr. Kellam, and I am unable to discover that there is chance for any question as to the intent of the section. As to the objection raised by Mr. Stone, of Potter, as I have already said, it will be met by the report of the Executive Committee.

Mr. Fisher, of Spink: I wish to offer an amendment, as follows, and I do it because I think there is a distinction between the words "failure to perform" a duty and the simple statement that a man has not done a thing. "Nor any person who has been, or may be collector, or holder of public moneys and has failed to account for and pay over such moneys due from him, shall be eligible to the Legislature or to any office in either branch thereof."

By the Chair: Please reduce the amendment to writing.

Mr. Kanouse, of Sanborn: In answer to the amendment suggested,—if we may consider it now before us—does the Chair hold that it is not before us until reduced to writing and seconded?

By the Chair: I would state that I believe it has been customary, at least so far as my experience goes, that in committees of the whole motions have been considered without being seconded. At the same time that would give us a little greater latitude.

Mr. Kanouse, of Sanborn: I am in favor of so legislating, Mr. Chairman, as not only to enable the state, or an individual, to recover money that is wrongfully withheld, but also to ensure punishment for the crime. It is nothing for me to know that, after a man has been prosecuted in the courts, as a necessary procedure in order to recover the money wrongfully held by him from the state or individuals, that the simple receipt of the money shall be entire satisfaction to the commonwealth; but, after the money is paid in, the criminal act stands against the man, and that such a person, though he may have paid every cent AT THE END OF A LAW SUIT, shall not be entitled to hold any office in connection with the Legislature, either as a member or an officer, where he can exercise any influence over the members of the Legislature. And therefore I am opposed to the amendment offered by Mr Fisher.

Mr. Owen, of Kingsbury: I do see certainly one motive, and with me an adequte motive, for retaining the language reported by the committee, because it is the exact language of the constitution of the state of Illinois, and if we preserve it intact we shall have the benefit of all the decisions of the courts of Illinois upon it.

Mr. Haines, of Turner: There is certainly some ambiguity in this language as it stands. Those who have paid any attention to litigation in which county treasurers, for instance, have been involved, well know that for years in such cases, some times, the question has remained undecided as to whether they have accounted for and paid over, or not. Of course, the theory of judicial decisions is that that which is found to obtain after ever so many years of litigation has been the fact from the beginning; so that one who is accused of not having accounted for and paid over public monies may be wrongfully accused, but the fact can not be ascertained perhaps until after long litigation, and yet during that litigation it will be entirely uncertain whether he was competent to hold office or not, under this provision. Therefore it strikes me that it would be proper to limit this latter clause by some language which should indicate that the fact shall have been ascertained by the proper tribunal. I do not offer this as an amendment, but as a suggestion merely.

By the Chair: The question is upon the amendment offered by the gentleman from Spink, which the Secretary will read.

The amendment was read by the Secretary, submitted to the vote of the Committee of the Whole, and declared lost.

Mr. Corson, of Lawrence: I move that the section be adopted as it now stands.

By the Chair: I suppose the motion would be to report back the section 5 to the Convention, with the recommendation that it be adopted. (Carried.)

By the Chair: The Secretary will read Section 6.

(Read by the Secretary.)

By the Chair: Section 6, having been read, is now before the Convention

By a Delegate: That is not all of Section 6, is it?

By the Chair: Are there any amendments to be offered to Section 6?

Mr. Neill: I move that that section be reported back for adoption.

A Delegate: In the 58th line I move we insert "free pass."

A Delegate: Mr. Chairman, I would suggest in the 67th line the words "of affirmation" be inserted after the word "oath."

By the Chair: Will the gentleman from Yankton please reduce his motion to writing and send it to the Chair?

Mr. Brookings, of Minnehaha: I would like to ask the gentleman from Sanborn, the chairman of the committee, if by this he intended to prohibit members of the Legislature from receiving passes?

Mr. Kanouse: That is the intention.

Mr. Brookings, of Minnehaha: It is not so provided there. It says they shall not take passes, but they may have their pocket full of them.

Mr. Kanouse: That was the intention of the committee. If we have failed to express it then the report of that committee is in error.

A Delegate: Withdraw it.

Mr. Kanouse: Mr. Chairman, on behalf of the committee, speaking for the majority portion of our committee, I move to strike out all the remaining words after the 59th, 60th and 61st lines, beginning with the word "free passes."

Delegate: Mr. Chairman, won't that leave them in a rather awkward position?

The Chair: The question is upon the motion of the gentleman from Yankton.

Mr. Brookings: I move that we report it back with the recommendation that it be referred again to the committee. That is the best thing to do.

The Chair: The motion to commit is in order Moved and seconded that Section 6 be referred back to the Convention, and that the report of the committee be adopted re-referring to the committee in which it originated.

A vote was taken.

The Chair: The Chair is unable to decide.

Division called for, and the Chairman announced the following result

By the Chair: 54 having voted in the affirmative, the motion is carried, being more than a majority of the votes cast.

Mr. Campbell: Mr. Chairman, I have a resolution here which I wish to offer, that any member of the Legislature having a personal or private interest in a bill passed or pending, shall disclose such fact to the house of which he is a member, and shall not vote thereon. I move its adoption., (Filed.)

Delegate: I move that we do now rise and report to the Convention.

Mr. Brookings: It seems to me that we could keep this committee busy for some time yet. We are getting along very well.

Delegate: We have an hour yet before dinner.

The motion was lost.

Mr. Campbell: I move that the resolution which I just sent in be read, and I move its adoption as a section of this Constitution.

The Chair: The Chair is of the opinion that this resolution is not properly before this committee. This committee is in session for the consideration of the report referred to it, and that this resolution should have come in before.

Mr. Campbell: Does the Chair hold that my amendments are not in order?

The Chair: The Chair would hold that no amendments are in order before the Committee of the Whole unless they were in before.

Mr. Campbell: Does the Chair hold that no amendments are in order? This resolution is offered as an amendment.

The Chair: The Chair does not so understand. It is my mistake.

Mr. Campbell: I move that this resolution be adopted as a part of the Constitution.

Delegate: What section?

Mr. Campbell: Let the house do as they please about that.

Mr. Owen: I do not see that this is anything but some good sound advice. If the gentleman would provide a penalty for violating its provisions, it would be a very good thing.

Mr. Campbell: I will say that it is copied precisely from the constitution of the state of Pennsylvania.

Mr Owen: What are you going to do if they violate it?

Mr. Campbell: It is about the same as prohibitionists. None of them have any penalties. It is simply a provision in many of the constitutions

The Chair: The question is upon this resolution offered by the gentleman from Yankton, as a further article to report back with the recommendation that it be adopted.

Delegate: Mr. Chairman, I am credibly informed that there is some business to come before the Convention, and it would facilitate matters somewhat if we rise, and allow the Convention to take the floor. I move that the committee do now rise and report progress.

Delegate I am in favor of making some progress before we eport, and I think we ought to do some business.

The motion was seconded and carried.

The committee arose, and the Chairman thereof made the following report to the President:

Convention

Chairman of the Committee of the Whole: Mr. President, the Committee of the Whole have had under consideration the report of the Committee on Legislation, report progress, and ask leave to sit again.

Upon motion the report was accepted and adopted.

By the President: The Bill of Rights Committee report is the next thing in order.

Mr. Brookings: I supposed that some of the gentlemen had some business that they wanted to bring before the Convention, but none has been heard, and I will move that the Convention go into Committee of the Whole for the discussion of the Bill of Rights.

By the President: I am required under the rules of yesterday to call in the order in which it appears.

Mr. Brookings: There being no other business before the Convention, I move that we go into Committee of the Whole on this Bill of Rights.

Mr. Owen: Mr. President, I think if we do that we will get into a chaotic condition

Mr. Brown: I was informed that the Bill of Rights was to be considered in the Convention. The suggestion was made to me, and I made the motion on that suggestion; I say that in justice to myself.

Member from Spink: I think there is business of importance coming up; and that the member who has made the suggestion will allow the rule to be suspended.

By the President The bills ready to be considered are the Leglisative Bill and the Bill of Rights, according to the rule of yesterday the Bill of Legislature was to be first considered.

Mr. Brookings I move that the rule be suspended and we now resolve ourselves into Committee of the Whole

The motion is seconded and lost.

A Member: I move that we adjourn until three o'clock.

Member from Sully: I move that we adjourn until two o'clock, or take a recess.

By the President: I would like to make a suggestion before this motion is put. It is this, that a gentleman of the city here is very anxious to preserve a photograph of this Convention, and he would like to have the members remain a moment on the front steps as they pass out.

Mr. Owen: I move that he take us as we sit in the room

By the President: We will now take a recess until two o'clock.

WEDNESDAY AFTERNOON

After recess the Convention re-assembled and upon motion of Mr. Corson the Convention resolved itself into Committee of the Whole with Mr. Brookings in the chair.

Committee of the Whole

By the President: Before the chairman of the committee takes his place, if the Convention will indulge me a moment I have an announcement of several of the committees that is very important, and if there is no objection the Clerk will read them.

Announcements—(On file.)

To prepare an address to the people of Dakota—Campbell, Brookings, Kanouse, Miller and McPherson.

Memorial to the President and Congress of the United States—Moody, Updike.

Mr. Campbell: I desire to offer the following second amendment to the report of the Legislative Committee:

Any member of the Legislature who shall solicit, demand or consent to receive, directly or indirectly, for himself or for another, from any corporation, company or person, any money, pass, etc., for his vote or official influence, etc.,—And move its adoption.

The motion is seconded.

Mr. Campbell: There was a case recently before the courts of this Territory, in which a high official was charged with bribery in the organization of new towns, in which his defense was that it was to be given to another.

Mr. McCallum: Does the gentleman offer this as a substitute for part of Section 6?

Mr. Campbell: No sir, no substitute for anything, but as a separate section It provides a penalty for the violation of his oath.

Mr. McCallum: It may be added to this report without affecting Section 6 at all.

Mr. Campbell: Let it go in anywhere.

By the Chairman: Let it go in as an additional section in this place. Are the gentlemen ready for the question?

A vote is taken and the motion carried.

Mr. Kanouse: I offer a resolution or mandatory proposition to Section 4, providing for the apportionment of new counties

Mr. McCallum: The amendment was made yesterday.

Mr. Kanouse: Was it adopted yesterday?

Answered yes.

Mr. Fowler: The amendment provides for an enumeration and apportionment after the first session of the Legislature.

Mr. Kanouse: Then there is no necessity for this one.

The Secretary reads the amendment as adopted yesterday.

Resolved, That the first Legislature after the admission of Dakota into the Union may make an apportionment.

Mr. Kanouse: I think this amendment provides for the apportionment of the new counties, and I see no necessity for adopting another one. I withdraw my motion.

Mr. Conniff: I move that the word "may" of Section 4, which has been amended, be stricken out and the word "shall" be retained. I move that it be reconsidered.

The motion is seconded, voted upon and lost.

By the Chairman: Section six is before the house; it was referred back to the committee. If you want to get at that you will have to reconsider the vote by which it was referred to the committee to bring it back to the Committee of the Whole.

Mr. Owen: We are not through with Section four yet. The words "but at no other time" have not been taken care of.

Mr. Ward, of Hughes: With the consent of the gentlemen I will withdraw that motion.

Mr. Kanouse: The motion to refer brings the whole section back again before the committee.

The Chairman: If there is no objection, the gentleman from Hughes may withdraw his motion.

The Chairman: The question then before the committee is upon the adoption of Section four as amended by the motion of the gentleman from Pennington.

Which motion prevailed, and Section four was adopted.

By the Chair: Section four was disposed of. I understand that the motion of the gentleman from Lawrence to refer also brings Section six back before the Committee of the Whole. Was there any amendment made to that section?

A Voice: I offered an amendment to that section, to insert the word "free" before the word "pass."

A Voice: It was accepted.

Mr. Smith: Now I do not know that I comprehend the situation entirely. It seems to me that if we put that word 'free' before that, it may be a man will go before the Legislature and a railroad man will come along, and say, "Here gentlemen, you can take a pass." He will say, "Here, I can't carry free passes; all right, I will give you a nickle for that pass." It is not a free pass now; he paid a nickle for it. Maybe I don't comprehend it; it seems to me after that man paid five cents for that pass, he gets around the Constitution.

Upon putting the question before the house, it was lost.

A Member: I move that we insert after the word "oath," in the 62nd line, and also after the word "oath" in the 65th line, the words "or affirmation."

Mr. Conniff: Let me suggest the same change in the 70th line.

Mr. Lowthian: I am opposed to putting in these words they are surplusage The whole must be taken together. There is no use of inserting those words in there

The amendment referred to was, upon going to vote, lost.

Section six as amended was carried, and adopted by the Committee

Section 7 coming before the committee for consideratian, Mr. Corson made the following motion:

That in line 76, we insert Three Dollars instead of Five Dollars. I do this because we are preparing now a Constitution, to which there will be undoubtedly objection made. In order to make the burden upon the people as light as possible it seems to me it is a duty of this Convention to prepare this Constitution with a view to economy; and as the committee who had in charge the salary of officers have fixed the salary of officers upon an economical basis, as I understand, it seems the Convention should follow this up by fixing the per diem at reasonable wages. Of course, it can be amended when the state has a large population, but at the present time it seems to me that three dollars is the better sum to fix the per diem at.

I would suggest in this connection that the adjoining state of

Nebraska has, I think, only three dollars per diem for its members, although the Constitution was revised in 1875, that amount was still retained, and is the same unless it has been changed very recently.

Minnesota had three dollars until recently; but that has been changed recently, but not until it became a populous and wealthy state.

Kansas, I think, has but three dollars for its compensation. I submit that in view of the fact that our constitution will meet with some opposition that we do not submit it to the criticism that we are entailing upon the people unnecessary taxes, or increasing their burden unnecessarily. I submit, Sir, that it will be more satisfactory to the people of this young state, for it is yet young, and the people are yet struggling, and we had better in this Convention at this time make the compensation for members exceedingly low

I know it is no compensation, perhaps, in the sense of pay for their services, but the original idea prevails that in legislative bodies, the honor conferred upon members is compensation for their services. It seems to me, therefore, that this motion should prevail.

Mr. Frank: I endorse the reasons that have been given by my associate, Mr. Corson, but I suggest that we strike out the words "five dollars" entirely, and leave it blank.

Mr. Ward, of Hughes: I hate to differ from the gentleman who offers this amendment, for I certainly value his judgment very highly. I believe that it is false economy; that it is not any economy at all. I at least wolld like to have the Legislature of the new state have compensation enough so they will not commence fishing the first day after their arrival. The session of the Leg-lature is limited to sixty days; for a Senator and member of the Legislature the compensation is $180 for the whole two years; as it stands now, it is five dollars per day, and that is but $300. It seems to me there is very little economy in cutting this amount down at the present day and generation. It costs more to live than it used to in our good old days. And then that question of honor, in going to the Legislature, I must say by the action of many of our legislatures recently, is about played out. I trust the amendment may be voted down.

Upon passing to a vote, the Chair announced he was in doubt.

A division of the house was called for.

By the Chair: The amendment to the amendment, offered by the gentleman from Lawrence, is lost.

Mr. Stone, of Potter: On looking further I see that the members are allowed ten cents for every mile they shall travel It seems to me that, although ten cents will not be too much, it will pay the members who travel the greater distance more in proportion than it does the other men, and for that reason I should move to amend by inserting the word "five" instead of "ten."

The motion was seconded and upon being submitted to the vote of the Committee of the Whole, declared lost.

Mr. Gehon, of Lincoln: I move to strike out the figure "5" in the 76th line and insert the figure "4."

The motion to amend was seconded, but did not prevail.

Mr. Owen, of Kingsbury: In the 78th line, I move to strike out the words "they shall" and insert in lieu thereof the words "of necessary," so it shall read "ten cents for every mile of necessary travel,"

The motion prevailed.

By the President: The question now occurs on the adoption of the section, as amended. All those in favor of the adoption of the amended section will say Aye. All those opposed will—

Mr. Owen, of Kingsbury: Mr. Chairman, Mr. Chairman! We have a right to speak before the nays are put.

By the Chair: Well, I am not so certain of that; however, I will not object to your speaking if you wish to.

Mr. Owen, of Kingsbury: Now, I don't want to limit the Legislature to sixty days; that is an important matter, for there may come a time when it will be necessary to prolong the session. But it seems to me that we should amend line 76 so that it will read "$5 for each day's attendance, not exceeding sixty days." There may be times when it is necessary for the Legislature to remain longer than sixty days, but let them stay without pay; that will be all right.

The amendment was seconded.

Mr. Maynard, of Brule: The committee in arranging that had the subject under consideration, and they made their minds to this: That if pay ceased at the end of sixty days, the end which they wished to attain was certainly balked. If they were to remain without pay, why the legislators or at least a majority of them, would be in the hands of the lobbyists. Hence PER DIEM should end with the sixty days and the session of the legislature should be limited to sixty days.

Member from Minnehaha: I see no reason why it should go in in the way suggested as an amendment. It says in a following clause that the Legislature shall not remain in session longer than sixty days. I think that is all right enough.

Mr. Owen, of Kingsbury: Let them stay longer if they want to, but without pay.

Mr. Moody, of Lawrence: I would like some information from the committee as to the proper construction of this section, before voting upon it. What is meant by the term "UNLESS EXCUSED?" They shall receive for their services the sum of $5 for each day's attendance (unless excused.)

Mr. Kanouse, of Sanborn: That parenthetical clause was struck out, it has been printed by mistake, and is a clerical error. It does not belong there.

Mr. Moody: Do I understad the gentleman that they have been struck out?

Mr. Kanouse: The words "unless excused" were printed by mistake and I called attention to the error and they were erased.

By the Chair: The Secretary will remember to erase that from the bill.

Mr. Stone, of Potter: In the 77th line I move that the word "ten" be stricken out and the word "six" be inserted therefor. I ask permission to give my reasons for this. Suppose one member has four hundred miles to travel; the probable cost will not be over six cents a mile, and he would receive ten cents per mile; he would receive, in other words, $20 and over free, over and above his actual expense for travel Now, a man who travels twenty-five miles at the cost of six cents a mile would pay out $1.50 and have one dollar left. So, the man who travels a short distance has one dollar, and the man who travels the long distance has $20.

Mr. Ward, of Hughes I think the gentleman is getting this matter down to so fine a point that the man who travels the farthest distance would have to pay half a dollar for a meal of victuals—

unless he goes to a second class place and gets it for twenty five cents. (Great laughter.)

A Member: I want to ask the gentleman on the right if the man who came two hundred miles wouldn't be likely to lose enough to make for the other man's loss of pay?

The amendment was submitted to the vote of the Committee of the Whole and was lost.

By the Chair: The question is now upon the adoption of the section. (Carried.)

Section 8 was passed.

By the President: Section 9.

Mr. Moody, of Lawrence: The Lieutenant Governor will unquestionably be an officer of the Senate, and there should be some proviso to—well, I move to amend by inserting after the last word in that section the words, "Except as otherwise provided in this Constitution.' Unless this amendment is adopted, it strike› me that the section would be inconsistent with another prov sion that will be likely to be adopted.

Adopted.

By the Chair: If there are no other amendments it will be considered that this section is adopted by the Committee of the Whole.

By the Chair: Section 10.

Mr. Kanouse, of Sanborn: That first word, "all," in the 98th line, is evidently a clerical error, and by common consent I shall ask that it be stricken out.

By the Chair: If there is no objection from anyone it will be stricken out. If there are no further amendments to be offered to that section it will be considered as adopted by the Committee of the Whole, to be reported back to the Convention with the recommendation to pass.

By the Chair: Section 11.

Mr. Kellam, of Brule: I move to amend Section 11 by striking out all of said section down to and including the word "void," in line 108, and insert in the place of the stricken words these words:

"No member of the Legislature shall, during the term for which he is elected, be appointed or elected to any civil office in the state which shall have been created, or the emoluments of which shall have been increased during the term for which he was elected."

I offer this with the view that the words which are proposed to be stricken out are altogether too sweeping; it goes entirely beyond the object it was intended to be.

Mr. Moody, of Lawrence: I second that motion.

Mr. Owen, of Kingsbury: I do not understand the difference. Will the gentleman explain the difference.

Mr. Kellam, of Brule: That section as reported, as the gentleman will see by reading it, makes a member of the Legislature absolutely ineligible for any office in the state; it may be one of the offices which has existed in the state for a hundred years, either an appointive or an elective office, in the county, township or the state, for the term for which he was elected. It seems to me that no good purpose can be served the state, or the county of the township or the municipality, by making a member of the Legislature absolutely ineligible for the office of even township supervisor, for instance, whereas the substitute which I offer is what is provided in nearly all of the constitutions of the different states, simply making a member of the Legiislature ineligible to the office which was created by the Legislature of which he was a member or the pay for which was increased while he was a member.

Mr. Edgerton, of Yankton I would like to ask the gentleman a question. How would that affect a case where the number of officers had been increased? In other words, if there is a new judicial district created? That is not the creation of an office, but is adding to the number only. Why I ask that is, the question has been raised in Minnesota, where they have what is supposed to be an iron-clad article upon that question, and the court decided that increasing the number was not creating an office. Consequently, a member of the Legislature who voted to make the new judicial district of his own county and one or two adjoining ones, didn't come under this provision. I don't know whether that would apply to any officer other than judges, or not.

Delegate: Mr. Chairman, let us have that read more slowly, so that the members can understand it.

Mr. Moody: Mr. Chairman, it strikes me that the better construction of that would be this: That where the office is created, that a member elected would be ineligible if he became a member of that Legislature, and no matter whether an older office had existed or not, I apprehend that the case already cited by the gentleman from Yankton must have been some case where the office was already created, and that office remained in abeyance. For instance, it strikes me that if the report of the Judiciary Committee were adopted, and three members of the Supreme Court were provided, and others provided for, it will be creating the office as far as that is concerned. Now, that portion of Section 11 sought to be stricken out is all wrong. It should be a member of the Legislature, and not a member-elect of the Legislature. A member might be elected against his will. He might be elected a member of the Legislature, though he might protest in the strongest terms. I do not say it is likely. That is one of those instances where a party does not make protests against their election to such places. Nevertheless it might occur. The motion of the gentleman from Brule is the only sensible and correct one. Simply because a man was elected to the Legislature ought not to disqualify him all the time from aspiring to other offices, that have been created after his election. The object of such a law is simply to prevent members of the Legislature from improperly exercising the functions of their office to their own ends, and the amendment offered by the gentleman from Brule accomplishes that object.

Mr. Edgerton: As a legal proposition, I will say that the best lawyers I ever knew have decided that the office of Judge was the creation of the constitution; that the creation of another district did not create the office of Judge. Frank Cornell, one of the ablest lawyers that ever lived in the state of Minnesota, afterwards attorney general, and one of the Judges of the Surpeme Court, decided that the office was created by the constitution, and that the creation of a new district, or of ten districts, was not the creation of the office of Judge, and that has been the rule in that state since, and on that decision Sherman Paige received his office. He was in the legislature, and was elected Judge, and immediately upon the adjournment of the legislature he entered upon the bench. I do not know as that is material to this question; I only mention it in connection with the history of the state of Minnesota.

Mr. Kellam: We will very willingly accept the construction of the law of the courts of Minnesota, as suggested by Judge Edgerton, and think that fact can not be urged. The fact that this was so decided can not be urged in opposition to the provisions of this section, as expressed by this section. Of course, we all understand that the object of that section was simply intended to put the Legislature under such limitation of power that they could not provide themselves with offices. The Legislature is not authorized to make new offices, and could not accommodate each one with an office, and could not create new offices, and entail expenses upon the state for the purpose of accommodating individual members of the Legislature. But the provisions, as reported by the legislative committee, goes much farther than that. It not only disqualifies members of the Legislature from holding offices created by the Legislature of which they were members, but absolutely disqualifies him and makes him ineligible for any office from that of township down. But if there is any reason that the members of that committee, or the Chairman, can give, why these members should be disqualified, and why the disqualification should be so sweeping and broad, I should like the house to be in possession of it.

Mr. Kanouse: I may be mistaken, but the question was the reason why that any gentleman who is a member of a town board or a school board, or a Justice of the Peace, or a postmaster, receiving a less salary than $300, as provided elsewhere in this section, he could not be elected a member of the Legislature, and continue to hold their respective offices. The committee provides only that after he becomes a member of the Legislature, instead of being elected. It disqualifies members from holding other offices during the term for which he was elected to the Legislature. That is the only difference intended to be covered. But if he will hold that office, he will be required to resign it, but he can not be a member of the assembly and hold his other lucrative office.

Mr. Taylor: To prevent argument I will read the constitutional provisions of Illinois. "Any person elected to the General Assembly shall receive no civil appointment from the Governor during the time for which he shall be elected, and all such appointments and all such votes for any such office, shall be void." The adoption and qualification of the Illinois constitution does not fit this case.

Mr. Coffin: I don't understand this; I am laboring under misapprehension. Is there any difference between election and appointment, or are they synonymous?

Mr. Owen: I rise to move an amendment to an amendment. I move to insert after the word "state," line 105, "from the Governor, Senate or the General Assembly."

Mr. Moody: I raise the question of order upon that. It is not germain for the proposition to go to the house.

By the Chair: I think the point of order is well taken. The gentleman's amendment is out of order.

Mr Moody: By adding to the amendment offered by the gentleman from Brule, these words, "nor shall any member of the Legislature receive any civil appointment from the Governor," and using the other language, "within this state during the time for which he shall have been elected," it will be complete.

By the Chair: Does the gentleman from Kingsbury consent to the amendment?

Mr. Owen: I understand that Mr. Moody's covers the same point; his is complete, mine is partial. If these words are added, as he suggests, where do they go in?

Mr. Moody: At the end of the amendment offered by the gentleman from Brule.

Secretary reads Mr. Owen's amendment. (On file.)

"No member of the Legislature shall, during the term for which he was elected, be appointed or elected to any civil office in the state which shall have been created or emoluments have been increased. Nor shall any such person receive any appointment from the Governor or the Legislature to such office. Nor shall any member of the Legislature be interested directly or indirectly in contracts within the satte or any county thereof, etc."

By the Chair: You have heard it read as the whole section will read after the amendments have been adopted.

A vote is taken and the amendment adopted.

By the Chair: Are you ready for the adoption of the Section as amended?

The section is adopted.

Mr. Ward, of Hughes: With the consent of the Chairman, I desire to present several amendments.

First. The apportionment of this state for members in the Senate. (On file.)

Second: The House of Representatives shall consist of three times the number of members of the Senate. (On file.)

Mr. Moody: It strikes me that those offers are not germain to the matters before the house. We are now discussing the business of the Legislature, with reference to its details. Section 11 pronounces certain penalties, or prohibits certain acts, and it strikes me your offers had better come in after we are done with this report.

Mr. Moody: We would have to go back in the order.

The Chair: Pass it now; if the gentleman from Hughes will call my attention to it later in the session.

Section 12 is called for, and is read by the Secretary, and adopted as the will of the Committee.

Section 13 is read, and on motion approved by the Committee.

Secretary reads Section 14.

By the Chair: There being no objection or amendment offered to Section 14, it is considered approved by the Committee of the Whole.

Sections 15 and 16 in due form were declared by the Chair to be approved by the Committee.

Upon reading Section 17

Mr. Walton: I move to strike out all from the word "the," in the 136th line.

Mr. Moody: It strikes me it will do no harm; we might as well not anticipate at all. While it is properly placed (and probably I should not say that without consideration), if we can adopt it and then arrange it afterwards; if it is adopted it will not go into the Constitution more than once. Of course the committee on Arrangement and Phraseology will have all these things under consideration, and refer it to the Convention.

Mr. Campbell: I respectfully second the idea of Judge Moody, and say I do not think there should be any feeling between the members of the committees; what we are after is a good Constitution. If the gentleman of the Executive Committee are in favor of this proposition why then if it comes in here, it is just as good here as anywhere else.

I wish to call attention to the fact that at the beginning of next week, several gentlemen have said that they were going home. We will save time in taking up these propositions. I think it had better remain here in the place where it is.

Mr. McCallum: I want to rise to say this: I would like to inquire for information what is meant by "except," in the 132nd line?

By the Chair That is rather out of order now. The question before the house is to strike out the last two lines. Strike out all after the word "expressed."

Mr. Kellam; I wish to say I do not think there was any feeling upon the part of one committee that another committee had been trespassing on their ground. I do not think that thought was in the mind of the Executive Committee. Simply, that the subject had been gone over twice in our reports, and that we had been a little more explicit in our report. Think that is the only idea, that we were duplicating this work.

Mr. Moody: If the language of your report seems more proper, the Convention can adopt that.

Mr. Walton: I am perfectly willing to withdraw the motion. The only reason I had in stating it was, we were a little more explicit in ours; not that I had any more pride in the Executive Committee than in the Legislative Committee.

Mr. Kellam: We can dispose of this matter by reading what the committee on the Executive Department report with reference to this matter, and if it is thought best we can strike it out at once. (Reads Section 10 of the report of the Executive Committee.)

Mr. Mason, of Brown: I move as a further substitute to the section, "No law shall embrace more than one subject, which shall be expressed in its title." Those are the words of the Minnesota Constitution, Section 27.

Seconded.

Mr. Edgerton Could not the Governor's salary be increased to ten thousand dollars a year upon a general appropriation bill? I suppose the intention was to avoid that thing; the wording of this; and strike the wording of this, "the general appropriation bill," out of his article of the Constitution.

Mr. Campbell: It strikes me that the clause presented by the gentleman from Brown is the correct theory, I have an amendment embodying that clause I wish to offer if the gentleman will accept it.

Mr. Mason: I accept the amendment offered by the gentleman from Yankton, and move its adoption by this Committee as a substitute for Section 17.

Which motion prevailed.

Mr. Kellam: Do we understand that substitute takes the place of the entire section?

By the Chair: Yes, sir.

Section 18 read by the Secretary.

Mr. Fowler, of Pennington: I move you to amend that section 18 so it will read as follows: "No special law shall be enacted by the Legislature."

By the Chair: Do you offer that as a substitute for the whole section?

Mr Fowler: Yes, sir.

Mr. Campbell: I second the motion.

Mr. Haines, of Turner: That is evidently too broad. There could be no legalizing act of any kind; no curative act of any kind. There are instances which can not be foreseen which the Legislature must meet by special act.

Mr. Fowler, of Pennington: I offer this substitute for the reason that I have personal knowledge that some of our states have just such a provision, and it seems to cover all contingencies; and it is done in this way: Pass a general law, for instance, for the incorporation of cities; pass a graded system. Make your cities of the first, second and third class, and let them incorporate under whichever class they pertain to. Or, if we desire a herd law, make it a general law of the state, but make it in the shape of a local option, so that any particular locality that does not see fit to adopt the provisions of the law, may say so; rescind it, in other words. Now, as the section is submitted to the Committee of the Whole, it simply leaves it in the discretion of the Legislature. They are the sole and only judges of whether or not the law is necessary to be special or general. And, if a gentleman from the west end of the state and another gentleman from the east end of the state connive between themselves that each can make a benefit by making a trade and passing a special law, why— it is absolutely necessary to prevent the occurrence of such proceedings. They can pass general laws, and there is no trading.

Mr. Kellam, of Brule: I would like to inquire whether the suggestion of the gentleman from Pennington meets the objections raised by the gentleman from Turner? It seemed to me that his suggestions were directed to a different class of cases from those which the remarks of the gentleman from Pennington covered; a class of cases of emergency. Now, I am not a friend of special legislation still it seems to me that I have in my own mind cases where special legislation might be entirely justifiable, and where, under constitutions like this, as it is proposed to be amended, it would be absolutely impossible. And as to the objection that "we leave it all to the discretion of the Legislature" whether special legislation is necessary or not, why we have to leave all to the discretion of the Legislature whether legislation upon any subject is desirable, or necessary. I would curtail special legislation, but I would not make it impossible in any case, no matter what might be the necessity. I am in favor of the section as printed.

Mr. Kanouse, of Sanborn: The committee had very good authority when considering these questions to have suggested these two cases, and I submit them for the consideration of this body: For instance building a bridge between this state and another state; providing for the maintenance of a ferry between this state and another state. That is a case where a general law could not be made applicable, and special legislation is necessary. Those two cases were singled out by the committee.

Mr. Campbell, of Yankton: I think that this clause is too broad. We should not prohibit by a broad, sweeping clause all legislation, because it may be necessary. Now here is the Illinois constitution upon this subject. (Reading at length from the Illinois constitution.) That leaves them in a position where they can enact special laws and at the same time tells them where they can not enact special laws, leaving in all these other cases the power to enact special laws. We can adopt a clause like that.

Mr. Fowler, of Pennington: I withdraw my amendment and offer as a substitute the clause just read by the gentleman from Yankton.

Mr. Moody, of Lawrence: Mr. Chairman, my impression is that before this committee shall pass that section, as it stands, it had better be carefully examined. I am inclined to think that there are terms used in that section that do not apply to the condition of affairs that have existed, do exist, or will exist in this Territory, and if this is an important subject we should be careful. This is a dangerous subject upon which we are treading. Precisely such provisions in the constitutions of the states have probably given rise to more litigation than any other one subject included in constitutional law. I ask you to be careful, and before this is endorsed by this committee and reported to the Convention and adopted let us have it carefully examined by the committee. I agree with the gentleman from Yankton that this proposition as submitted by the Legislative Committee is too liberal, if we are going to restrain the Legislature at all. And I agree with the gentleman from Yankton as to the first proposition, offered by the gentleman from Pennington, that would absolutely estop the Legislature from doing many things that are absolutely necessary. Instead of adopting this (I think there is no occasion for particular haste), let us send that back to the committee and have it carefully examined, and made to apply, in the several terms that are not used, to the system under which we are working.

Mr. Campbell: I have no objection.

Mr. Moody: And therefore, I move to commit this subject, and the amendment offered by the gentleman from Yankton (and that I believe is all that is pending), to the Legislative Committee, with a request that they report to the house. That is, I move that this committee, when it rises, recommend to the house that this section, with the amendment, be recommitted to the committee, with a request that they report at an early day. (Seconded.)

Mr. Beebe, of Minnehaha: I desire, by the indulgence of the house, to go back to Section 13, and call attention of the house to line 120, and the word "it." Manifestly "it" refers to the yeas and nays; and I would move to amend Section 13 by inserting "the vote" in place of the word "it."

Mr. Owen: Strike out "it shall."

Mr. Moody "And they shall."

Mr. Beebe: The amendment is that the words "and the yeas and nays" shall be inserted in place of the word "it," on the 120th line. (Seconded.)

Mr. Moody: O, this is entirely unnecessary; the word "it" covers the whole meaning.

Mr. Cranmer, of Edmunds: I would suggest that it would be better to drop the word "had" and insert the word "taken," and drop out the words "it shall be" so it will read "and the yeas and nays of members on any question shall be taken at the desire of one-sixth of those present and be entered upon the journal." (Seconded.)

Mr. Beebe: I accept the amendment.

Mr. Jessup, of Faulk: I think that can be amended with a good deal less trouble by simply striking out the word "it." I move to amend the amendment by dropping out the word "it."

By the Chair: I think the motion is out of order. The gentlemen will have to send up their amendments in writing.

The Chair: Is the house ready for the question? All in favor of the motion will please say aye.

By the Chair: The motion prevails.

Section 19.

Mr. Neill Mr. President, I move that where the word 'Dakota" occurs, it be spelled 'Dacotah."

By the Chair: If there are no further amendments to be offered to this section, it will be considered approved by the committee.

Section 20 read.

By the Chair: If there is no objection, this section will be considered approved by the committee.

Section 21 read.

By the Chair: If there is no objection, Section 21 will be considered approved by the committee.

Section 22 read.

By the Chair: If there is no objection, this section will be considered approved by the committee.

Delegate: Mr. President, I move that the words in the last line, "in pursuance thereof," be stricken out.

The motion is lost.

Mr. Campbell offered a resolution providing that all appropriation bills should originate in the House of Representatives. (On file with Secretary.)

Mr. Campbell: I say there is a great difference between the

House of Representatives and the Senate. The House of Representatives are so much closer to the people, and are a much larger body. I desire to call the attention of the Convention to the fact that in all the constitutions this provision is made, if not in a majority of them. I think it is right to put into the hands of the larger body the power of appropriating.

Mr. Moody: We are not establishing aristocratic bodies n this Constitution. We are opposed to it. We want a provision which provides for the election of a Legislature composed of two houses, both elected at the same time, for the same time, and for the same object, except one set serve in the Senate, and the other in the House of Representatives, one smaller than the other, so that it requires the two bodies to pass a bill, and the approval in addition to that of the Governor. Now, what there is in this idea, that one of these bodies, elected for the same time as the other, of the same age, can not be permitted to originate appropriation bills, I can not see. Why, they are not closer to the people than this smaller body; they all come from the people. It is true, perhaps, that the senatorial district will be larger, and in some cases we will be compelled to elect Senators from two counties, and the House of Representatives from one.

But it seems to me that this section has grown out of the custom of the House of Commons to originate legislation upon the subject of appropriating funds. All members of the Legislature are just as near to the people, and I do not see any necessity for any such abridgment as that. Now, there may be a reason, possibly, to apply this rule to the Senate of the United States, because the House of Representatives are elected directly by the people by their votes. The Senators are elected indirectly by the Legislatures of states, and therefore there is a distinction, but there is no distinction known in the states as to the two branches of the Legislature. If you put the Senate in the same position as the United States Senate, possibly there might be some reason in this proposition. But you put these people on the same footing, only you constitute them into separate, distinct bodies, and you require that they shall separately deliberate upon the subjects before them, before they become laws.

The Chair: The question is upon the amendment of the gentleman from Yankton.

The motion was lost.

Section 23.

By the Chair: Any amendment to be offered to this one?

Mr. Owen: In line 167 the word "unauthorized" should be stricken out.

Delegate from Faulk: Line 7 seems to be mixed. I never knew that appropriations were incurred for that purpose. I supposed they were appropriated for the expenses of suppressing insurrections.

Delegate: In line 176, the word "expenditures."

Mr. Campbell Mr. Chairman, it is for expenses. It is evidently a mistake of the printer.

Delegate: The object of this provision must be that the Legislature will have power, to make appropriations to cover expenses for suppressing these insurrections.

Mr. Moody: Insert the words "appropriations for the expenses of suppressing insurrections."

Mr. Owen: In line 167, I move to strike out the word "unauthorized." Strike that out, and it will read straight.

By the Chair: Are there any other amendments? If there are none, those in favor of adopting the section amended say aye; contrary, no.

It is carried.

Secretary reads Section 25.

By the Chair: If there is no objection to that it will be considered as passed.

Secretary reads Section 26.

Mr. Moody: I think it is much wiser to leave that to the Legislature, instead of making it mandatory. I move to strike out "shall" and leave it "may."

A Member: Would it not be well to strike out the whole section? The Legislature will do it on its own responsibility.

Mr. Moody: No, I think it is wise to leave it.

Mr. Owen: It is better to leave it as it is when you think of the millions and millions of dollars that have been repudiated, to show that we always mean to be fair.

By the Chair: It is moved to strike out the word "shall" and insert the word "may."

The motion is lost.

By the Chair: If there are no other amendments Section 26 will be considered to be approved by the committee.

Member from Sully: I move to amend that section so as to read that no law can take effect until after the 4th day of July.

Mr. Taylor: I would like to offer an amendment to that section providing for the publication of the laws, in addition to the time I don't think the time is so material, whether it is 90 days or the 4th day of July. The laws should be published in, at least, one newspaper in the organized county where said newspaper is published. In New Hampshire they have adopted that plan. They have published in the newspapers or in a supplement. In Minnesota it is also done. It is well known that under the present arrangement of this Territory, we know nothing of the laws until the last of July, when they are published in book-form, and the people have no access to them; only the lawyers and officers are supplied with them. The Legislature makes no other appropriation for their publication.

Mr. Corson: For the reason that it produces too great an uncertainty as to when the law shall take effect, there should be some day fixed as to the time, and the question of its being inserted in the proper newspaper would raise the question as to whether such acts had been complied with It seems to me that the proposition that the gentleman first made, to have the law go into effect at the end of the Legislature, is a proper one. No doubt the Legislature will do as it should do in regard to providing for the publication, in the mean time, that should be a matter left to the Legislature.

The Secretary read the amendment offered by the member from Sully,—"No act shall take effect until after the 4th of July, etc.

A Member: I move to strike out all that part of Section 27 down to the sentence beginning on the 177th line.

Mr. Fellows: I am in favor of the specification as to time, as offered by the gentleman from Sully.

Mr. Fowler: It seems to me that we had better not legislate upon that proposition. We are putting a restriction on the Leigislature. The law cannot go into effect until 90 days after the adjournment of the session. I apprehend from that law, that it is in the power of the Legislature to have it take effect at the time specified, or four months after July, or any other time, so that would not come within the restriction of 90 days. The section is good enough, it seems to me.

The Secretary reads the amendment offered by the gentleman from Sully.

Mr. Phillips: I would suggest that every act would take effect,—that they cannot take effect before that; let us have it designate when it shall take effect. I would offer this amendment: "Every act shall take effect on the 4th of July next after the adjournment of the session."

Mr. Moody: Mr. President, I do not think, Sir, that that sort of restirction should be placed upon the Legislature; it is legislative in the strictest sense of the term. There might arise instances that the Legislature should not desire, and that would not be for the benefit of the people for a law to take effect a year after its passage. Do not let us legislate too much in this Constitution; we are doing a good deal of this as it is. I shall favor the amendment offered by the gentleman from Sully.

Which amendment being carried to a vote was lost.

Mr. Taylor: I think it is proper to have them published, although there are several gentlemen opposed to it. I think the people are entitled to have these laws. We have had an experience of some twenty odd years in this Territory in which the people have had no idea of the laws. Even the lawyers and the judges, for that matter, have had no idea of the laws of the land—

Mr. Fowler: If I am not mistaken the amendment of the gentleman from Lincoln was embodied in that of the gentleman from Sully.

By the Chairman: No, sir.

Mr. Taylor: I feel constrained to insist upon the convention taking up that subject and passing upon it one way of the other. I can safely say there are numerous cases where in the practice under the Code as it may be amended from time to time, where litigants have suffered damage and loss by reason of being defeated in suits by some amendment when even the lawyers and judges upon the bench did not know anything about them. This is caused by reason, in this Territory, that no laws have been published in the usual way until three, four or five months after the Legislature has adjourned. We could get them in no way except by writing up to the Secretary and receiving a certified copy. That is not practicable.

This is no experiment; it has been tried in a number of the states. I have one that is fresh; the Legislature of the state of New Hampshire in June, 1885, and it has published the laws in supplement form. These supplements were distributed to the various newspapers; they can be published at a cost of perhaps a cent a copy. Take for illustration the county I have the honor to represent. The circulation of the newspapers in my county would not exceed, perhaps, a thousand copies TAKING TEN DOLLARS TO INFORM MY PEOPLE OF THE LAWS OF THE TERRITORY!

It has worked well in the state of Minnesota, from whence I came, and for that reason I think it should be required of the Legislature that the laws be published.

So far as the objection of the gentleman from Pennington is concerned, that may well be met here in another way. You need not make it necessarily imperative that the validity of the law depends upon the publication; you need not have that in there; I do not ask that; I only ask that they be published and that the people as well as the lawyers and as well as the officers may know something as to what these laws are.

I call your attention to the further fact in the passage of this Constitution. When you go before the people with this Constitution for a vote of the people, I ask, unless it is published, how are the people going to vote upon it? We have got to make some provision for it. I claim this is a good, wholesome measure and it ought to be required that they publish these laws.

Mr. McCallum: I send up an amendment to Section 27

By the Chair: Unless it is an amendment to the amendment, it cannot be received.

Mr McCallum: The amendment is as to the publication of the laws, is it?

The Chair: Yes, sir.

Mr. McCallum: This will then be an amendment to the amendment and to be added to the section. (On file)

Said amendment provided that within the said ninety days the Legislature shall provide by law for the publication of all general laws in at least one newspaper, and in book form, and be distributed in book form within the different counties before they go into effect.

The amendment was lost, when put to vote.

The Chairman: The question now is upon the amendment offered by the gentleman from Lincoln county.

Mr. Stone: It seems to me the laws ought to be published in some way. I do not say that the proposition of the gentleman rom Lincoln county is correct; I say it ought to be provided for in some way. I know in our county it was very difficult to find the act that called this Convention together until a very short time before coming here.

Mr. Wright, of Brookings: I would ask if our Legislature are not competent to publish the laws without embodying it in the Constitution.

Mr. Jessup: While I deem that the gentlemen who have spoken upon this subject are more capable of judging of this matter I do not think the people of our county are willing to delegate the power to the Legislature to say whether or not it will publish the laws. I am interested, and I think the people are interested in having these laws, and that we should demand of the Legislature that they publish the laws.

I do not know anything about the validity depending upon the publication, but want to have them become valid. If this is a government of the people, and by the people, and 'the people rule,'' it seems to me the people ought to know what rule they are living under. I know our people are anxious to have the law in some shape. They do not care how they get them, so that the Legislature be required to publish them and they do get them.

Mr. Lowthian: With regard to the question of printing, we forget that the Legislature met last winter under a Territorial organization and that Congress made the arrangements for printing of the laws. When we become a sovereign state and have a Legislature of our own, we can trust the Legislature with these details.

Mr. Cranmer: Mr. President,—

(Calls of question, question, question.)

Mr. Cranmer: I am heartily in favor of the proposition of publishing the laws so that the people can get hold of them. I know that I could not get hold of the laws published last session of the Legislature, governing the acts of the County Treasurer, without putting my hand in my pocket and paying $3.50. I am in favor of having the laws published in the cheapest way and in the way that the laws will find their ways into the homes of the people; so that the people will get them through the newspapers without extra cost. I do not like the body of the motion that is made by the gentleman; I would like it if it was reconsidered.

Mr. Gehon: I wish to say a few words in support of the measure. We boast as a people of being the greatest people on earth to disseminate knowledge, to scatter it broadcast throughout the land. Unless they are published it will be impossible for the people to know what the laws are under which we live; what the law of the land is. The people pay for them; have they not a right to them?

For this reason I will simply support the measure of my colleague of publishing in the newspapers in each of the several counties.

Mr. Miller: I offer an amendment to the amendment (on file with Secretary), that each member of the Legislature be required to furnish each constituent with a bound copy of the laws. (Laughter.)

The amendment of the gentleman from Lincoln coming to a vote was lost.

Mr. Tousley: I call for the yeas and nays on that.

Mr. Conniff: I move you— I believe the theory—

By the Chair: Do you want to offer an amendment to this?

Mr. Conniff: Yes, sir. I move the addition of the following words at the end of Section 27: "When the same shall take effect by publication in at least two newspapers of general circulation in the state." This is to cover—

By the Chair: I can't have any more speeches on this.

Mr. Conniff: I don't want to make "any more speeches."

Mr. Dow: Let us have the amendment read.

Mr. Conniff: I will read the amendment, to follow at the end of the section, in these words: "When the same shall take effect by publication in at least two newspapers of general circulation in the state.' This applies to the last portion of the section, as I understand it.—

By the Chair: We can't have you making a motion and then making a speech. You offer your amendment and if somebody seconds it we will have it before the house.

Mr. Conniff: **I didn't want to make any speech.** But just to explain the connection in which the amendment came in.

By the Chair: Did anyone second the amendment of the gentleman from McCook? If there is no second, the Chair refuses to entertain it.

Mr. Dow: May I ask if the motion is to celebrate the Fourth of July? (Laughter.)

By the Chair: The gentleman is out of order. We will have to send for the Sergeant-at Arms if this is repeated.

Mr. Neill, of Grant: Is it not proper to inquire what is before the house?

By the Chair: You have got to give a man a chance to make his motion and somebody to second it.

Mr. Coffin, of Beadle: I have been looking at some other matters and have not been paying proper attention to the proceedings. I beg your indulgence to ask what is before the house. If there is an opportunity, I want to move—

By the Chair: The question before the house is on approving Section 27. The amendments have all been voted down.

Mr. Coffin: There seems to be a disposition to get some provision by which the laws shall be published. The provision in the section simply specifies the time when they shall take effect. I read an article (which I send up to the Secretary) from the constitution of the state of Indiana: "No act shall take effect until the same shall have been published and circulated in the several counties of this state, by authority, except in cases of emergency, which emergency shall be declared in the preamble or in the body of the law." The laws were there published and sent by express to every county clerk in the state. When the Governor got his receipts he issued his proclamation, and then the laws took effect, because they were published in every county in the state, and I move this as a substitute.

(The Secretary here read the amendment.)

Mr. Ward, of Yankton: Must there not something follow this to define what is publication?

Mr. Moody: Well, that was voted down. Let us go on.

(The amendment proposed by Mr. Coffin did not prevail.)

By the Chair: Now the question occurs on approving this section, without amendment, so far.

(Carried.)

Mr. Campbell: I move the following section as an amendment, and as an independent section. (Reading same at length.) (Amendment on file.) I would simply state that this section is taken bodily from the Pennsylvania constitution upon that subject excepting that I have added "capitol site."

Mr. Moody: I move that this committee, when it rises, recommend to the Convention that that amendment properly should be referred to the Legislative Committee, with the request that they report at an early day. Let us have these extraneous matters referred to the committees for examination.

By the Chair: If nothing is said on it, the motion of the gentleman from Lawrence will prevail.

Mr. Campbell: Mr. Chairman, I have a motion—

Mr. Moody: Mr. Chairman, I suppose the gentleman from Yankton wishes this one to take the same course as the former.

Mr. Campbell: No, sir. (Laughter.)

By the Chair: Wait, Mr. Campbell, until we have disposed of your first motion. The question is upon the motion of the gentleman from Yankton, as to whether it shall be recommended by the Committee of the Whole that it be referred to the committee on Legislative Affairs. (Carried.)

Mr. Campbell: I move to amend now by inserting this section. (Reading at length.) I would state that this is simply the complement to the other section you have already adopted.

Mr. Moody: We have not adopted Section 28 yet.

Mr. Campbell: You have adopted a section punishing bribery in the Legislature. Now this is to punish the man who offers bribery to the Legislature, and in addition to that it contains a provision that the United States statute contains, and probably a good many of the states, that a man who is concerned in it can not plead that he is not obliged to testify because it will criminate himself; he must testify though his testimony does criminate himself, but his testimony can not be used against himself in any action. I hope the gentleman will not insist on referring this, but will adopt it as it is.

Mr. Moody: The only objection I have to this is that it is absolutely and unqualifiedly legislation, and has nothing whatever to do with the Constitution.

Mr. Campbell: I desire to say that, though the gentleman may call it legislation, it has been deemed by two or three constitutional conventions very wise to adopt it. Illinois and Pennsylvania have it, I think, and several others also.

Mr. Owen: I move that that be referred back. It is too long. I can't vote on it without an opportunity to examine it. As a matter of precedent, I move to refer it to the committee.

Mr. Kanouse: Mr. President,—

By the Chair: I think these questions of sending to the committee are not debatable.

Mr. Kanouse: I do not wish to make a speech as to the propriety of sending this back to a committee, but wish to suggest that it go to the proper committee. It seems to me that this should be referred to the proper committee. It seems to me that this should be reported back to the Convention with the recommendation that it be referred to the Executive Committee, rather than the Legislative Committee.

It was so ordered by Committee of the Whole.

Mr. Williams, of Hand: Mr. Chairman, there is a proposition which I desire to submit and have made a separate section. It has been under consideration in the committee on Public Accounts and Expenditures, and we adopted a section, a part of which has been agreed to and a part of which was not covered by the proposition here. It is that part which is not covered by the report of the committee, which I now present.

The section offered was read by the Secretary and placed on file. The opening words of the proposed section were as follows: "No bill making an appropriation—."

A Member: I move it be referred. (Seconded.)

By the Chair: It is moved that we recommend to the Convention that it be referred to the Legislative Committee. (Carried.)

By the Chair: The next section is Section 28.

The Chair: If there is no amendment and no objection to this section, it will be considered approved by the Committee.

Mr. Ward, of Hughes Mr. Chairman, I regret very much to call the attention of the Convention to it at this time, as there seems to be some desire on their part to get through with this subject, but it seems to me that haste in this particular would not be wise. It is of considerable importance I believe that it should go into the Constitution. I believe that it will go into the Constitution, and come before the people. But I do not expect to discuss the question now. It ought to be submitted to the people, that it may be discussed by them, that they may cast their votes for or against it. I believe in minority reports, not only in matters of this kind, but also in matters of appropriation. I do not know any reason why one person can not be voted for, why a man can not cast his vote for one member or for all three. It is not the "Dakota plan;" it is a plan tried by Illinois, and found to work salutary there. It has been adopted by Michigan, and I believe it is a plan that will be adopted by all the states. I would like to have it called up.

Mr. Moody: I move you, Sir, that the committee rise and report action to the house.

Mr. Ward: I have a matter here now.

Mr. Moody: What is it, Mr. Ward?

Mr. Ward: Those sections I offered.

The Chair: He offered three sections some time ago, and at the request of the gentleman from Lawrence, withheld them.

Mr. Moody: Which committee do they go before?

Mr. Ward: To be inserted in the Legislative report.

Mr. Moody: Very well, then, I will withdraw my motion for the present.

Mr. Moody: Will Mr. Ward make any motion? He desires, I think, they should go to the committee.

Mr. Ward: I have no objection to their going to the committee, with the understanding they should be referred back with this section.

The Chair: Now, if there is no objection, it will be considered the sense of this committee that the three sections offered by Mr. Ward will go to the Legislative Committee.

Mr. Campbell: I move that these sections referred to the

Legislative Committee be reported back tomorrow morning. We want to close up this calendar, as I understand it.

The motion is adopted.

Mr. Moody: Now, Mr. Chairman, I make the motion that this committee rise and report progress to the house.

Motion is adopted.

Convention

The Convention was called to order by President Edgerton.

Mr. Brookings, Chairman of the Committee of the Whole: Mr. President, your Committee of the Whole have had under consideration the legislative appropriation bills, and have gone through with the same, and recommended the passage of the same, except such sections which are asked to be referred to the Legislative Committee.

Mr. Campbell: I move that the Sergeant-at-Arms and Janitor—

Mr. Moody: Has the Chair made any provision for this report?

By the President: No, sir.

Mr. Moody: I move its adoption by the Convention.

Mr. Dow: It seems to me it is not the proper course for this Convention to take. We don't want to adopt this report without further consideration.

Mr. Moody: We will have to go over the whole subject again.

Mr. Dow: This matter should come before this Convention again.

By the President: My understanding of the matter is that the report was adopted by the Convention, with the exception of certain sections.

Mr. Dow: Mr. President, I think I understand the use of the Committee of the Whole is simply to discuss amendments to these bills, but not to adopt them. I know we are in Convention now, but, save the right to take up these things, it would be certainly a wholesome business I think we should have another hearing. If it is in order, I would like to amend the motion made by the gentleman from Lawrence.

Mr. Moody: It is not necessary. It is accepted when it gets to the hands of the President. If gentlemen are going to change their minds from hour to hour, and if we are going to get through with this proposition, we might as well make our minds to form a large debating club, and stay until spring. If we are going to adopt a thing, why let us stick to it.

By the President: I understand that the rule is this: The motion is made by the gentleman from Lawrence, and the report is adopted with these two exceptions.

Mr. Moody: It may be reserved by the house?

By the President: Yes, sir.

Mr. Dow: Do I understand that this is final action?

Delegate: I do not know of the adoption of the report of the committee except these reports that were before the committee and referred back to the house.

Mr. Owen: I would ask if this is not correct: Does not the whole report of the committee go to the committee on Enrollment and Engrossment? That is the way that was done with the report of the committee on Military Affairs. Is a motion necessary on that subject?

By the President: It does not need a motion. If any member of this Convention rises and asks that that recommendation of the committee be accepted, it is accepted, and the motion of Judge Moody is beforethe house as to the balance of the report of the Committee of the Whole.

Mr. Ward: I would like to ask if there is any exceptions made if they were not at that time reported with some exceptions of some other matters, it will be referred back to the committee, and would be reported. If it has not, I would like to ask for those exceptions now as to the exceptions of the minority report. I ask to bring that before this Convention and have a vote upon it. I ask to have a vote upon it.

By the President: I was not understood in making my statement. It was this, that the recommendation of the Committee of the Whole be excepted from the report. Not that the report might be accepted, but that the recommendation might be accepted, and the Convention vote on the balance of the report, simply In other words, the Committee of the Whole have recommended that the question of the minority report should be referred to the committee on Legislation. Mr. Ward asks that

that portion of the report be simply excepted by the gentleman from Lawrence.

Mr. Moody: Mr. Ward does not ask that.

By the President: That is simply an illustration of the rule. The question is that the report of the Committee of the Whole be adopted.

Delegate: When a question has been put and decided, it shall be in order for a member voting with the majority to ask for a reconsideration. We have the right, if we feel so disposed, to go back of the report.

By the President: Possibly so. I have never examined that.

Delegate: I think I am correct according to Rule 22.

Mr. Miller: I would like to inquire now, if a committee makes a report to this Convention and a motion is made to adopt that report, if that does not dispose entirely of that report of that committee. As I understand it, if we adopt these reports in the Committee of the Whole, we have nothing more to say about it, unless we reconsider it. A committee reports, and a question comes up before this Convention for its final adoption. If every gentleman is satisfied with that report, it is disposed of, but if they are not satisfied and desire to offer amendments, they dismiss the Committee of the Whole.

By the Chair: That is not my understanding of the rule. You never discharge a Committee of the Whole. The question is, will the Convention adopt the report of the Committee of the Whole? The ayes have it. The report of the Committee of the Whole is adopted.

Mr. Campbell: I move that the janitor or the Sergeant-at-Arms be instructed from this time on, to have the hall in readiness for evening sessions.

By the President: If there is no objection they will be so instructed. There is none, and it is so ordered.

Mr. Moody: If there is no business pertaining to the Constitution on hand, I have a report from the committee on Rules and Order of Business to attend to, but first I desire to ask unanimous leave to make the report from that committee.

Secretary reads the report.

The following was offered by Mr. Allen, of Turner county:

Resolved, That in order to facilitate the business of the Convention, or adoption of the reports, no member shall be allowed to speak more than five minutes, and not more than once on the same subject.

The motion is seconded and carried.

Mr. Moody: I suggest that the hours for the opening of this Convention be, in addition to those fixed by the rules, two o'clock p. m. and seven-thirty o'clock p. m., after today.

The motion is seconded and carried.

Mr. Ward, of Yankton: I offer a report on the Seal of State and Coat of Arms.

It is handed to and read by the Secretary.

Mr. McCallum: I offer another report on the Seal of State and the Coat-of-Arms.

Mr. Taylor: I ask the unanmouis consent of the Convention to introduce a resolution and to have it referred to the committee on Memorial.

Secretary reads the resolution.

By the President: There is no objection and it is referred to the committee on Memorial.

Mr. Walton: I offer a resolution to be referred to the committee on Taxation and Revenue.

The Secretary reads the resolution and it is referred to the committee on Taxation and Revenue.

TENTH DAY

The Convention was called to order at 10:10 a. m.

Prayer was offered by Rev. A. Jamieson, of Sioux Falls.

Prayer

Let us pray.

Oh God, Thou God of the universe, unto Thee do we come this morning for grace and help, for wisdom and direction; for we have learned from Thy words, and we have learned from our past experience, that every good and every perfect gift cometh from Thee. And we realize Thy love, that in so far as we have trusted in Thee and sought Thy counsel and Thy help, that our plans have been a success; and in so far as we have trusted in ourselves in our native strength and wisdom, our plans have been frustrated and a failure. We come therefore, again this morning to implore Thy fatherly benediction upon us and to seek Thy guidance and grace, that all our works may be right in God, so that they may succeed. And we pray Thee, Oh God, that Thou wilt guide us. Lead Thou the kings and rulers of the earth and all that are in authority, that we may lead a quiet and peaceful life in all godliness and honesty. And we pray Thee, Oh God, that all the nations of the earth may rule in righteousness and that Thy name may be glorified among the people. Especially do we pray for our own land and nation, that it may be so guided in the affairs of the state that whatever best suits the people may be sacred and that the God of nations may be exalted among us. And we pray Thee, Oh God, that in so far as wrong exists, that it may be corrected, and the righteousness which exalteth a nation may be the heritage of the people. And, Oh God, we pray Thee, that the laws which are being formed here may be ratified at the polls. And we pray Thee that when we knock at the door for admission into the statehood, it will be readily granted us, and that all who find homes in this Territory may be placed under the influence of Thy benign laws that are incorporated into the Constitution here. Guide us by Thy Spirit and finally save hs, for Christ's sake, Amen.

By the President: The Secretary will read the journal of yesterday.

Mr. Kanouse: I move that the reading of these reports be omitted.

By the President: It is moved that the reading of these reports be omitted. If there is no objection it will be so ordered.

The Secretary proceeded with the reading of yesterday s Journal.

Mr. Neill: Before these minutes stand approved, I wish to offer a motion in regard to the times of meeting of this body. It seems to me, and I think to a great many others in this Convention, that two sessions per day, beginning at nine o'clock in the morning, would be best. It would also be better for our stenographers, as it would be an impossibility for them to keep up with their work if we have an evening session. I move to reconsider the motion passed yesterday with reference to meeting at 7:30 o'clock in the evening.

Seconded.

By the President: It is the Journal of yesterday we are to approve or disapprove, not business of this morning.

The Journal of yesterday was declared approved by the President, there being no objection from the Convention

By the President: Mr. Neill, of Grant, moves to reconsider the motion by which the sessions of the Convention were fixed yesterday.

Which motion prevailed.

Mr. Neill I move you, Sir, that the motion be amended to provide for a morning and afternoon session the morning session to begin at nine o'clock, and the afternoon session to begin at two o'clock.

Which amendment was duly seconded and carried unanimously by the Convention.

The resolution as amended was adopted by the Convention.

Under the order of business, Communications and Presentation of Petitions.

Mr. Ward, of Yankton:offered a petition from Yankton (on file), signed by forty-five names, asking that he subject of female suffrage be submitted to the people in separate clause.

Referred to committee on Elections and Right of Suffrage.

Mr. Jones presented a petition from W. H. Lyons, which was by the Chair referred to the Legislative Committee. (On file.)

Communication concerning woman's suffrage, from Marietta M. Bones, of Webster, Dakota, read by the Secretary. (On file.)

By the President: That is referred to committee on Elections and Right of Suffrage.

Reports from Standing Committees

Mr. Kanouse: I submit a report from the Legislative Committee. (Filed.)

Mr. McCallum: I wish to send up a report also (Filed.)

Mr. Frank: I submit a report from the committee on Name, Boundaries and Seat of Government of State, a communication from the Surveyor-General. (Filed.)

Mr. Gehon: I submit a report from the committee on Exemptions. (Filed.)

Mr. Kellam: The Executive and Administrative Committee, to whom was referred the resolution of Dr. More, have had the same under consideration and return the following report. (On file.)

Mr. Owen: The committee on Bill of Rights have had under consideration the resolutions submitted to them, and make the following report. On file.)

Reports from Select Committees

Mr. Owen: Your committee on Prohibition beg leave to submit the following report: There is no provision for printing the reports of special committees and I don't know that there is any necessity, as they are printed in the journal. We do not ask it. If agreeable to the Convention, I would ask that the consideration of this report be set for Saturday at two o'clock. We shall be considering reports of standing committees, in committee of the whole and otherwise, until a late day, and the committee on Schedule will require some time afterwards to make provision for the submission of the vote.

By the President: We are only receiving the reports now.

Mr. Owen: Then the last portion of my remarks are not in order at this time?

By the President: No, sir.

Presentation of Resolutions and Propositions Relating to the Constitution

Mr. Hanson, of Yankton: I send to the Secretary a resolution.

Read by Secretary and placed on file.

Referred to committee on Finance.

Mr. Schultz: I also have a resolution to offer.

Same was read by Secretary and referred to Legislative Committee.

Mr. Tousley: I wish to offer a resolution.

Same was read by the Secretary.

By the President: Referred to committee on Apportionment.

Mr. Tousley. I ask that it be referred to the committee on Legislation.

By the President: The committee on Legislation is overworked now, but if you ask that it will be so referred

Mr. Tousley: I do not ask it.

By the President: Referred to the Legislative Committee

Mr. Moody: There is no report from the committee on Rules this morning. The report of the Judiciary Committee is on the tables of the members, and I move that we take the report up and proceed to its consideration.

Mr. Campbell, of Yankton: I will ask that the gentleman withdraw that and let us take up what we were at yesterday and finish it, in order that it may go to the Engrossment Committee. I refer to the consideration of the report of the Legislative Committee.

Mr. Moody: I have no objection if the Convention desires it. Indeed, I rather favor the plan of taking that up and disposing of it.

Mr. Campbell: I move that the Convention proceed to the consideration of the report on Legislation.

By the President: If there is no objection, that will be the order.

The report of the Legislative Committee was read by the Secretary.

Mr. Kanouse: I will ask the Secretary to please read that latter portion again. I think every member of the committee will bear me out, that that was reported back with the recommendation that the Schedule Committee provide for the submission of the minority reports to a separate vote of the people.

The Secretary: Several lines here are scratched out.

Mr. Kanouse: The wrong thing was scratched out. I ask that the scratching be done in the right place.

By the President: The Secretary will read the recommendations of committees in the order in which they were presented.

The Secretary reads accordingly.

By the President: The report is before the Convention.

Mr. Brookings: I would ask that that be indefinitely postponed.

Mr. Campbell: I would ask to have that read again.

The motion of Mr. Brookings was carried.

Mr. Moody: It strikes me that the proper way is not to go through all these propositions that have been suggested by the committee, in the Convention, but the proper way is to take up this report where it was left off yesterday, when reported by the Committee of the Whole, and proceed to its further consideration. There were certain matters that were referred back to the committee for examination, and were left undetermined.

When they have brought back their reports into the house and proceed to consider the original reports, it is not necessary, it strikes me, to proceed to go through all these resolutions that have been before the Legislative Committee.

By the President: The order of the Convention was that we take up the report of the Legislative Committee. The committee report is now before the Convention.

Mr. Moody: It was the report of the Legislative Committee, reported back from the committee.

Mr. Brookings: I move, Mr. President, that we take up such sections as they have moved the adoption of.

By the President: Such will be the order unless objection is made.

The Secretary reads resolution regarding the granting of passes by railroads to officials of the state.

Mr. Kanouse: Mr. President, just one word in explanation. Many of these resolutions are provided for, and there was nothing to be done except to return the resolutions generally as a matter of courtesy, and let the gentlemen have them. That was the object of the committee in reporting them back.

Mr. Brookings: I move that the resolution lie upon the table.

The motion was carried.

Mr. Fowler: Mr. President, I move you, Sir, that we now take up the substitute of Judge Campbell, of Yankton, for Section 8 of the Legislative report.

By the President: Such will be the order unless objection is made.

The Secretary reads the substitute.

Mr. Campbell: Mr. President, I would like to ask to see a pamphlet copy of that.

Delegate: At yesterday's session it was ordered that the apportionment report of this committee be printed and laid on the tables of members, and I think the proper proceeding would be, before taking action in the matter, we wait until the printing is done.

Mr. Campbell: Mr. President, if that is the view of this Convention, and I think it a very wise one, I will ask this as an amendment, and ask that Judge Moody accept it.

By the President: The order has already been made by the Convention. The only way to reach it is to reconsider that motion.

Mr. Campbell: I will move, then, if it is the general sentiment of this Convention, that the further consideration of this section be postponed until tomorrow morning, in the order of the consideration of the several reports. Meanwhile this section as recommended by the committee, and the section proposed, both be printed, and laid on the tables of the members of this Convention.

The Secretary reads the motion and it is carried.

A Member: I move to reconsider the motion—

By the President: If there is no objection made to the motion offered by Mr. Campbell, it will stand.

Mr. Proudfoot: I would like to know how long we will have to sit here?

By the President: The motion before the Convention is the further consideration of this amendment of postponement, that the committee on Printing cause to be printed and distributed to the delegates, this section and the amendment.

The motion is voted upon and carried.

Mr. Corson: I move that the whole report of the Legislative Committee be postponed until tomorrow. There will be other amendments made, then we can see what we are acting upon, and its effect.

Mr. Coffin: I simply want to inquire if the Legislative report is postponed for action until tomorrow, with suggested amendments? Would it be proper now to introduce an amendment, or to be introduced then?

By the President: The other motion is before the house. It is moved that further consideration of the Legislative bill be postponed until tomorrow at 9 o'clock.

Mr. Neill: I understood the gentleman asking for the motion to say that it was in the regular business.

By the President: The effect is to make it a special order. It is voted upon, the ayes have it, and the consideration of the Legislative bill is made a special order for tomorrow at 10 o'clock.

A Member: The committee on Preamble submit a report. (Filed.)

By the President: Consideration of the report of the Executive and Administrative Committee.

Mr. Moody: The report of the Judiciary Committee is next. I move that we take up that report.

Mr. Owen: I am in favor of that, but I know that some of the members are not familiar with it.

By the President: Shall we take it up in the Convention, and not go into Committee?

Mr. Moody: I don't think it is necessary to go into Committee of the Whole on this.

The Secretary reads Section 1 of the report of the Judiciary Committee.

A Member: I wish to ask whether this is a minority or majority report? It seems that it has not been signed.

Mr. Moody: It is a report of the committee.

By the President: The report of a committee is one thing, and a minority another. There is no minority report. Any amendments to be suggested? If not, the Secretary will read Section 2.

Mr. Moody: I suggest that the sections be considered adopted as we proceed, unless there should be objections or amendments, without putting the motion.

By the President: But we finally complete the reading of it and adopt the report as a whole.

Section 2 is read by the Secretary.

Mr. Cranmer: I would like to ask what is meant by the clause, "except as is otherwise provided by the Constitution," Section 2?

Mr. Moody: That is under the next section.

Section 3 is read by the Secretary.

Mr. Jessup: I move that we postpone the consideration of this report until tomorrow, as this report has just been laid upon our tables. Now here is a report of the Executive and Administtative. I move that we consider that.

A Member: I move that we consider the Bill of Rights.

Mr. Owen: I second the motion.

Mr. Jessup: I withdraw my motion.

By the President: A suspension of the rule adopted two days ago is called for.

Mr. Moody: If we go through this report and find that there is any objection to it or are obliged to pass any section because the members do not understand it, then I would cheerfully consent to the postponement of it until tomorrow, but we must go as far as we can, and then stop when stuck.

The motion is voted upon and the nays have it.

Section 3 is read and no amendments.

Section 4 is read.

Mr. Haines: I move to amend Section 4. (Amendment on file with the Secretary.)

Amendment—

"The Supreme Court shall be held at the seat of government and not more than two terms each year."

Mr. Moody: I would state to the Convention that the majority of the committee and Mr. Haines, the member who offers this amendment, (could not agree as to the point) so that the Convention may vote intelligently upon it. The section as it stands in the report provides that two terms shall be provided for by the Legislature at the seat of government, and before the Legislature acts, or in case of its failure to act, the Judges can fix the time for holding these two terms, as it is in the province of the Legislature to provide additional terms and also, in case that the Legislature shall deem it necessary or wise to fix the term or terms at other places, the committee was of the opinion that it would be wise to leave that at the discretion of the Legislature, and not restrict them absolutely so as to prevent any other disposition being made of that question. Now, Mr. President, it seems to me that the conclusion of that committee was a wise one. This state if admitted into the Union will be 400 miles long. We cannot tell what emergencies may arise which may make it necessary to provide additional terms for the Supreme Court, and certainly we are not so exceedingly wise as to be able to for all future time, tie up the Legislature, who are the people's representative, and compel them to act as we see fit. It seems well to leave something for the people whom we represent and whom the Legislature represents.

Mr. Haines, of Turner: It is somewhat painful to be compelled to take a position in opposition to a majority of the committee. It is liable to be more painful to meet the criticism of the chairman of the committee. But I do not think I can discharge my duty under my convictions without urging my reasons for thus differing.

The argument is made that we are restricting the people too much. I fail to see the relevancy of that argument as made with reference to this prohibition, on the ground that the efficiency of the Court will be increased, by placing it upon wheels, on the ground that economy in the expenditures attending upon that Court will be promoted; on the ground that the reasonable convenience of the Judges will be promoted.

I am in favor of the substitute.

In speaking about the size of this coming state and the possible necessity of distributing the terms of the Supreme Court all over the state, DO WE FORGET that the Supreme Court of the United States is held at the capitol? And there only? And do we forget that we will, Sir, as certain as night follows the day, if we leave this section stand as it is, have fastened upon us a system of courts to be held in different sections of the state?

In the neighboring state of Iowa, there is a term of the Supreme Court and two terms in each year provided for the four corners of the state. I am aware from personal intercourse with the Judges that this is very onerous to them, and it interferes with the discharge of their duties.

We provide at the seat of government a court room, a state library. Establishing Supreme Courts at other points involves the furnishing of court rooms, attendants, and all the paraphernalia of courts in each of these towns. The expenses will be at least duplicated and probably quadrupled.

I am at a loss to know upon what construction the learned lawyer, as chairman of the committee, is led to oppose the locating of the court at the capital. No one who appreciates the labors of the Judge, but that knows that concentration of mind and continuity of thought is necessary to the proper discharge of his duties, and under this system of holding Supreme Court, it is impossible for the Judges to perform those duties properly.

I am jealous for the efficiency of our Supreme Court. I do not want to see the Court travelling from one end of the state to the other; Mohamet should not go to the Mountain; let the Supreme Court be at the capital. Let the attorneys travel there rather than have the Courts travel to the attorneys.

In Iowa the system is fastened upon them and it is too late, I am afraid, for them ever to change, because there are vested interests in the various towns, and they require it. Now the matter of State Library; the use of that very valuable adjunct to the labors of the Court, is lost to a very large extent by compelling the Supreme Court to be held in different sections of the state, except by permitting it to be taken off, and it can be done, we may be well assured, if the way is left open.

Again, the efficiency of the Court will be promoted by locating it at the Capitol, because oral arguments will be more encouraged by the Court fixed at the seat of government than where terms are held all over the state. It is a matter of experience that where Judges must leave their homes and board at hotels they are just about as anxious to get away from the term of court as the gentlemen are becoming anxious to leave the labors of the Convention. The consequence is, that oral arguments, without which no wise court likes to decide causes, is discouraged wherever that system prevails. I see no reason why Judges should be compelled to travel through the state, why they should be robbed to that extent of the comforts of domestic life; there is no necessity for it.

The popular arguments weigh mere nothing at all; the people of the state won't be put to the expense; the efficiency of the Court will be increased; the comfort of the Court enhanced by locating the Court at the seat of government.

Mr. Moody: It is only by the courtesy of the Convention that I am entitled to reply to the learned counsel. He should have presented his views on his amendment in the first instance, and given me an opportunity to reply. That is the regular order of argument.

By the President: I do not remember what the particular rules are, but usually the chairman of a committee in support of his own report, is given the close.

Mr. Moody: I desire to say as briefly as I can that the argument of the learned gentleman from Turner applies exactly as if he was making an argument in the Legislative Assembly. We are not here to legislate; we are here simply for the purpose of laying down the organic law, truly in the restrictive sense. Now, your committee thought with great unanimity that it was wise to leave the consideration and control of this suggestion made by the gentleman from Turner where it properly belongs, to-wit, the Legislature.

It does not follow that the Supreme Court will be provided for at any other town than at the seat of governmen ; the exigencies of the service may require that it shall. The gentleman remarks that in the Constitution you provide that the Supreme Court shall be held elsewhere, in the grand division of the state; this provides no such thing. It simply provides that the Legislature shall provide that two terms of the Supreme Court shall be held at the seat of government—and leaves it there.

The learned gentleman tells us that it will inevitably follow that there will be a Supreme Court on wheels. This Territory, and the Co rts of this Territory, have been organized ever since 1863. In 1862 the Judges were first appointed; in 1861, indeed, the Judges were first appointed. I think the Courts were organized in 1863. They have been twenty-two years in operation, and until through the corrupt influences which surrounded the Legislature two years ago, and our Capitol was stolen from us, the Legislature had not thought of removing the Supreme Court to any other point than the seat of government.

If the people act wisely (as we hope now it will be left to the people), and they select a seat of government which is at an accessible point which is central, I have no fear that the Legislature will provide a Supreme Court at any other point than the seat of government.

There might be exigencies arise, though the Supreme Court met properly at the seat of government, which would demand that the Court should meet elsewhere. And remember this, that with so restrictive a clause put into the Constitution, and it becomes necessary for the Judges to go elsewhere, a question of jurisdiction might arise which would be very inconvenient to meet.

An epidemic might be raging at the seat of government, and in the administration of justice by the Supreme Court, by the organic law (the very life of the state), you have restricted their sitting to that particular spot.

Now, I believe I have not so little confidence in the people of the coming state, and so little confidence in the representatives which they will elect to represent them, as to restrict them in this particular.

I should be as opposed, except under extraordinary circumstances, to holding the Supreme Court elsewhere than at the seat of government, as my learned friend from Turner county. But that is not the question now; it is not one of policy; it is simply one, whether we shall establish the rigid rule which the gentleman contends for, of whether we shall allow it to be so flexible, that in the exercise of the wisdom which we must presume they will possess, they may in case of such an emergency, provide to hold court elsewhere. That is all.

Upon passing to vote, the amendment was lost, by a standing vote of 44 nays and 26 yeas.

Mr. Updyke: I wish to offer the following amendment to the section, by adding the following words: "Provided, that no term of the Supreme Court shall be held outside of the boundaries of the state." (Laughter and cries of "Oh," "Oh.")

Seconded. Lost.

Section 5.

Mr. Moody: Mr. President, at the suggestion of several of the delegates to this Convention, and without having the opportunity this morning to consult with the committee, I have prepared and now offer a substitute for that section. My proposition is to strike out Section 5 and insert the following in lieu thereof. (Read by Secretary and filed.)

With the permission of the Chair I will state the reason for such a provision. The report of the committee divides the state into three districts, one west of the Missouri river, one between the Jim river and the Missouri, and the other east of the Jim river. The object and purpose of securing the election of one of the Judges from the territory west of the Missouri river is this: We have in this state diversified interests perhaps to a greater extent than in any other state in the western country. In addition to the magnificent wealth which exists in the agricultural lands in this state, we also have the precious and the useful minerals within the borders of the state. The government of the United States has adopted a different rule from the government of any country that I know of on the face of the globe, with reference to the disposition of the precious metals. It has allowed and permitted not only the private individual to extract those precious metals from the earth for their own use, but it has provided that the very lands in which the precious metals are contained may be sold to and purchased by private individuals and become private property.

Now, under this license, as it was originally, or this permission—to go back still further in the history of the government relating to this peculiar property—and under the law which Congress subsequently enacted providing for conveying the title to the private person, there has arisen a peculiar and special kind of litigation, which is entirely different from that which a person practicing in the agricultural country alone, meets. And many of the rules of the common law, with which all lawyers become familiar, have almost to be unlearned, or at least the lawyer in such a district of country has to learn that he cannot apply the principles of the English common law in many instances in the character of litigation which in such a district of country arises. Therefore the lawyers become educated in that special direction; and the litigation in consequence thereunder is of wonderful importance frequently, either in fact or prospective. Of course, a gold or silver mine, while it is an uncertain quantity, is frequently found to be of wonderful value—and frequently found to be of very little practical, profitable value. Those values are involved in the litigations and it is exceedingly important for such interests—it is of paramount importance for such interests, that in the Supreme Court of the state shall be one lawyer who has been raised and educated to that peculiar specias of litigetion. A person must reside in the country to become acquainted with it. It is said that lawyers know what the common law is; they know it not alone from reading books, not alone from hearing it from the mouths of lawyers and judges, but they absolutely, as we all do, absorb it from our surroundings. It is based, of course, upon the rights of men regarding property and personal rights. And, as I say, we absorb it from our surroundings. So in a measure does the lawyer who lives in the district of country where this peculiar character of litigation is in vogue. And therefore it seems that nothing is asked that is unjust when it is asked that there shall be assured upon the supreme bench of this state one judge acquainted with that peculiar and particular litigation. Of course, I am aware that west of the Missouri river is a large scope of country. We all hope and pray that that reservation that is now the great barrier to the prosperity of this coming state shall be swept out of the way and that those agricultural lands may be filled with the pursuits of industry, but we are willing to take the chances that whatever lawyer shall be elected with sufficient ability to take his seat upon the supreme bench shall be a resident of that district of the country—shall be acquainted with that particular and peculiar litigation. The committee thought it wise to divide the entire state into districts. Upon that I have no particular opinion, and the committee did divide it into districts as I have indicated, but several of the delegates have suggested to me that it would be wise, conceiving the propriety of fixing the one district so that the peculiarly educated lawyer that I have suggested would be assured upon that bench, to leave the others together; leave the people to select from whatever particular portion of the country east of the Missouri they see fit. And therefore I have presented this substitute for Section 5. (On file.)

Mr. Lowthian: Mr. President, I notice that in the argument of the gentleman from Lawrence, he takes exactly the opposite position from that taken by him a few moments before, on Section 4, when he said we could trust the Legislature in this business.

This very thing comes here as a bar that we can not take down—we just left one down. Now, if we can not trust the people and the Legislature to divide this territory into districts, who are we going to trust? Are we going to trust the lawyers? How does the gentleman know that a lawyer is going to be elected to the supreme bench? The people may see fit to elect somebody else. If we divide it now in this Constitution and say that one judicial district shall remain over there, it will have to be amended by an amendment to the Constitution.

Mr. McCallum: I should like to hear the amendment offered by the gentleman from Lawrence read again.

The amendment was read by the Secretary.

Mr. McCallum: Now, it seems to me that Section 5, taken in connection with Section 11, is good enough as it is. Section 5 as it stands provides that the Supreme Court shall consist of three Judges, to be chosen from districts. Section 11 provides that the districts until otherwise provided by law shall be as follows: The first district, all that portion of the state lying west of the Missouri river. I am a little surprised that the gentleman comes in with a motion for a substitute, considering the fact that the committe had in view these identical questions, that one district should be west of the Missouri river and have one Judge; that one district should be between the Missouri and the Dakota and have one Judge, and the other east of the Dakota and be entitled to one Judge. The gentleman well remembers that the question was discussed also as to whether the committee should determine whether the Chief Justice should be from the first district or from the third, or from the second. And an amendment or a proposition to this effect, that the Chief Justice should be from the first district and serve two years, the other two Justices from the other two districts and serve two and four years, was voted down in the committee, and the term of office for the Judges of the Supreme Court was left at four years for the first set and six years thereafter for the remainder. I do not see why the two sections as they stand, taken together, are not strong enough and sufficiently explicit to give to the voters of this state one Judge from each of the districts as they are named. I shall oppose the substitute.

Mr. Brookings: I certainly can not see any reason for the change. I think the argument of the gentleman from Lawrence was an excellent one; but it applies just as much to every other section of the new state as it does to the Black Hills. I do not believe the Supreme Court Judges ought all to be elected from one town—the capital—but divide it around. Why, my friend from Grant county (Lowthian), a farmer—he might make a very good Supreme Court Judge, with all deference to the lawyers. If he wants to get there, though, he perhaps will have to strike out some of these sections which provide that no one can be elected Judge unless he is learned in the law! (Laughter.) I might amuse this Convention by illustrating, as taken from the diary of John Adams, where, in the state of New Hampshire, it was related that the man who had been Chief Justice for twelve years never had read law. And it was said that he was one of the most excellent judges known. I would not say that my friend from Turner county (Tousley) would not make one of the best judges you could find in the country. Certainly in the middle district, in which are the towns of Mitchell, Huron, Aberdeen and Pierre, there is sufficient material. I believe that what emenated in the first instance from the brain of my friend from Lawrence is just what we want, and that is that these Judges for the Supreme Court may be elected from the different districts, and unless there is better reason for changing the report than has been shown, I hope we will pass it just as it is.

Mr. Owen: I feel compelled to oppose the substitute, and stand by the report of the committee, and make this suggestion: In the Black Hills, capital is represented, and labor is represented. A contest may arise between labor and capital, and it may turn out that the judge from there is interested in capital, and sent from there by capital. Is it not right to leave it in the hands of the people to correct such abuses?

Mr. Fowler: Mr. President, I have a word to say from an experience of five years, practicing my profession in that far off country that Judge Moody has spoken of, and I prefer Section 5 to this substitute. I see in the section as recommended by the committee no possible means by which or whereby any confusion may arise. Now, in this substitute there may arise confusion in the rights of persons or candidates, for the several candidates must be selected from these respective districts, and voted for by each of the political parties, while on the other hand the substitute provides that one shall be appointed from that particular locality. If our respective candidates of the respective parties come from that district, let them be elected and qualified there.

Mr. Moody: Now, I suggest that I offered this at the suggestion of several members of this Convention. It is a matter about which I, so far as I am personally concerned, have no special opinion or care. I understood that the people who were sent here to represent those residing east of the Missouri river, preferred a clean sweep. I simply suggest that if there is a disposition by this Convention to vote down that proposition, I prefer to withdraw it.

By the President: The leave is granted.

By the President: Any further amendments to the section?

Section 6 is read.

By the President: Any amendments to Section 6?

Section 7 is read.

Mr. Moody: There is a clerical or compositor's mistake, and I will ask that the Secretary correct it.

By the President: It has already been corrected.

Section 8 is read.

By the President: Are there any amendments or propositions to Section 8?

Section 9 is read.

By the President: Are there any amendments to Section 9?

Section 10 is read.

Mr. Neill: Mr. President, I move to amend by inserting in the fifth line after "unless learned in law," "and be of the age of thirty years."

Delegate: Who is to be judge of whether a man is learned in the law or not? I move to strike out the words in line 5, "learned in the law."

By the President: How does that differ from the amendment offered by the gentleman from Grant?

Delegate: The amendment offered by the gentleman from Grant would not make it read correctly; there is a grammatical complication.

Delegate: I would ask the gentleman from Edmunds to read his amendment.

Mr. Cranmer: intended to strike out a word, which I did not do. It s all right now, however.

Mr. Brookings: I move for division of this amendment. I understand we vote first on the motion, "learned in the law."

By the President: On the request of the gentleman from Minnehaha the question will be divided. The question now is, will you strike out the clause or leave it in?

Delegate: There is only one question before the house. The gentleman from Grant accepted the amendment of the gentleman from Edmunds. There is only one amendment.

Mr. Moody: I do not think the Convention is going to do so absurd a thing as that.

The motion on the amendment was lost.

Section 11 read and passed.

Section 12 is read.

Delegate: Mr. President, have you passed upon that section 11 yet?

By the President: I asked if there were any further amendments, and there being none, it was passed.

Mr. Neill: I wish to make an amendment to that section. That the second district shall comprise all that portion lying east of the Missouri river, and south of the 5th Standard Parallel. Perhaps it will be a matter of information to know what these districts are comprised of.

The second district will comprise the counties of Clay, Union, Minnehaha, Turner, Moody, Lake, Miner, Sanborn, Davison, Hanson, Hutchinson, Yankton, Bon Homme, Charles Mix, Douglas, Aurora, Brule, Buffalo and Jerauld.

The third district of Brookings, Kingsbury, Clark, Grant, Marshall, Roberts, Day, Hyde, Hughes, Hand, Sully, Beadle, Potter, Faulk, Edmunds, Walworth, Campbell, McPherson. So you see, according to the section there is almost twice the territory in one district that there is in the other.

By the President: Is the Convention ready for the question?

The question is voted upon and lost.

Secretary reads Section 12.

Mr. Moody: Mr. Haines, of Turner, desires an amendment to be offered, inserting the words, "and also a reporter," between the words "clerk" and "of," in the first line of Section 12, so that it shall read, "there shall be a clerk and also a reporter of the Supreme Court." The amendment is offered.

A vote is taken and the amendment adopted.

Mr. Moody: I ask the gentleman from Turner if he desires this amendment offered as a separate section It refers to a separate section, to the copyright, and it is offered as another section under that head.

Secretary reads the amendment.

Mr. Moody: I second the amendment.

The amendment is adopted.

By a Member: I move that we adjourn until two o'clock.

The motion is seconded.

Mr. Brookings: Before adjournment, I have a motion to offer, and ask to have it read, and desde action upon it now.

Secretary reads an invitation from the Mayor to the delegates to attend the fair.

By the President: I move that the invitation be accepted by the Convention.

Convention adjourned until two o'clock.

By the President: Proceed with the consideration of the report of the Judiciary Committee.

Section 13 read by the Secretary.

Mr. McCallum: I do not know whether Section 13 was printed accurately or not. It seems, in the last clause, as though the Judges were given a considerable jurisdiction. "They and the Judges thereof shall also have jurisdiction and power to issue writs of habeas corpus, mandamus, quo warranto, certiorari, injunction and other original and remedial writs, with authority to hear and determine the same." That seems to imply that Judges at chambers would have the authority. I think that was not exactly the way the section was reported, though I would not be absolutely sure.

By the President: Do you propose an amendment?

Mr. McCallum: I do not now.

By the President Next section, Mr. Secretary.

Section 14 was read and adopted.

Section 15 read by Secretary.

Mr. Owen: I desire to call attention to the provisions relating to the Territory included in the third circuit, and ask the gentlemen who may know, whether they have included there what was intended. That is, whether any Territory in the circuit north is to be found except that which is provided for here, between the north line of the county of Day and the 46th parallel of north latitude, is there any territory that has been omitted?

Mr. Moody: No, sir; that includes it all.

Section 15 was adopted by the Convention.

Section 16 was read by the Secretary.

Mr. Neill: I make a motion with reference to the amendment of Section 11. It was not properly stated, also not properly understood. I ask the consent of the house at this time to present the matter as I intended it should be presented and understood. If there is no objection, I will read the amendments I propose to offer to Section 11. They are found in line 19, and also in line 21. (On file with Secretary.)

Second District, to comprise that portion of the state lying east of the Missouri river and south of the Second Standard Parallel.

Third District: All that portion of the state lying east of the Missouri river and north of the Second Standard Parallel.

This will be a much more equitable arrangement of the districts. In the district south there is about 130,000 population, and in the district north about 110,000 population, but the size of the district north will compensate at least for the less number of inhabitants. I move you, Sir, this amendment to that section.

Seconded.

Mr. Anderson: I would like to have this amendment read with the names of the counties in each district.

Which is accordingly done.

Mr. Brookings: The strongest objection we have to this change is there is nothing material about it. For instance, it is one of those things you would have to refer to a committee to know whether it was a fair proposition. You can not take into consideration the population of the counties; it certainly takes the three largest cicruits, that has got the most population in one district. The Legislature can change these districts. This seems to be asking for something when there is nothing to be gained by it. Some say, the counties are divided; these officers are elected by the state; it merely says they shall be elected one from each district, and gives the natural boundaries, the rivers. It seems there is not enough in the provision to have the change made. When these are made they should go to a committee so they could be examined. It is like making a new apportionment of the people. You can't tell anything about it unless it was before a committee, and reported, and printed. For that reason, and also for the sake of not making a change, I hope the amendment will not be sustained.

Mr. Neill: If there is nothing to be gained by this, there is certainly nothing to be lost. But there is this about the division as recommended by the committee, that the line dividing the two districts divides the counties from one end of it to the other, and if there is to be any representation by counties at all it will be divided in this case, making it very uncomfortable for those counties to be represented in part when they should be represented entire, in addition to the argument I presented before.

Mr. Owen: This morning when this question came up I took the same view that my friend from Minnehaha takes, that it was immaterial; and so I stood by the report which I helped to make. But since the adjournment a good many of the members from the north, east of the Missouri river, have expressed themselves, and there seems to be an anxiety to change this. This leaves the north and south districts in more compact form. And there is a little bit of feeling that might just as well be stated as not, for it is felt, that the committee perhaps felt the necessity to run this thing up and down the Dakota river because it was necessary to run it up and down the southern part, in the older and most thickly settled part of the country, in order to get competent judges—

Mr. Brookings: If they—

Mr. Owen: Wait till I get through—

Mr. Brookings: I was about to suggest that—

Mr. Owen: Wait till I get through; I have the floor; (excitedly), I don't hear you at all. I think it would give better satisfaction. Let us stand before the country united on every point that we can. For this reason I will vote the other way. I will vote for this proposition. As to the reference to the committee, it is hardly necessary. A member says that the population north is 110,000 and south 130,000. That slight difference will soon be remedied. As we have two days to reconsider this, if it is discovered that an error has been made by the gentleman in stating these figures, we will have plenty of opportunity to rectify it. I take it to be true that there are 110,000 there and 130,000 here, and I will vote for this change, as there seems to be a desire for it. (Carried.)

Sections 18, 19 and 20 were passed without any amendments being proposed.

Section 21.

Mr. Dow: I offer an amendment to Section 21. I move to amend by striking out the word "one" from the 16th line and inserting in lieu thereof the word "two."

The motion was seconded and put to the vote of the Committee of the Whole, and by the Chair declared lost.

Division called for.

By the President: There are 24 in favor and 38 against. The motion is lost.

Mr. Taylor: Mr. President, I do not wish to offer any amendment to that section, but I rise for information. I came in a little after the Convention was called to order, and I would like to ask what was done with the sections, 13, 14, 15, 16 and 17?

By the President: Well, as soon as we get through, the Secretary will read it all. There may another gentleman come in with the same request.

Mr. Taylor: Well, if you please, I only wish to inquire what has been done. We left off with the section 12, and we have commenced, according to my record here, at Section 18, and I rise to ask what action has been taken by the Convention with reference to those sections.

By the President: They have all been read to the Convention and either adopted as they stood or amended and adopted. We have skipped none.

Section 22 was passed without amendment.

Section 23.

Mr. Neill: I rise for information. I would like a little distinction as to the duties of the attorney-general and the state's attorney.

Mr. Moody: An attorney general of a state is an officer of the state. He takes charge usually of the important litigation of the state. And the state's attorney may be sometimes designated "district" or "county" attorney—local attorney, in other words. Now of course the term "Attorney General" is quite odious just now, or has been—I don't know that it is just now—but still I think that we ought not to refuse to permit the Legislature at some future time to provide an officer who shall be the counsel for the state. Usually he takes charge of such criminal and other matters in which the state is interested, in the Supreme Court. He is the advisory counsel of the state officers. He has very important duties to perform and of course it is an important office.

Mr. McCallum: I think that "state's attorney" should be in the plural number. I suggest that it be plural.

Mr. Moody: The word "attorney" in the second line should be plural—"state's attorneys." I think it is a clerical error.

By the President: The Secretary will make the correction.

Section 24 was passed without amendment.

Section 25.

Mr. Brookings: I move to strike out of that section all after the word "law," in Section 25, line 2, down to line 7, including all of lines 3, 4, 5 and 6. (Seconded.) The object of striking that out is that is it purely legislative; it don't seem to have any other object in the world. It certainly is no part of the Constitution, and I hope, as we have got a proper judiciary article, that we shall strike that out. Unless we do prohibit them from doing it in some other article, why they can do it. If we should prohibit them, why it would have to be stricken out hereafter. I hope it will be stricken out now.

Mr. Moody: I think that ought not to be stricken out. There may come a time in the future, while the state is operating under this Constitution, when the people will desire to take the question of the election of the judges of the supreme and circuit court entirely out of politics—have the election on a different day. Certainly, so far as my own view is concerned at this present time, there is only one single reason why I would not favor the election of judges on a different day, and that is on the score of economy, while we are young and poor—that is, the economy of elections. Now there is a question always arising as to the abridgement of terms of office. The legislature sometimes desires to legislate a man out of office. Sometimes, under some laws, of course, an office is held to be a vested right. I admit that is very seldom the case. It is a peculiar law which affords that construction. But this can do no harm. It merely gives the legislature the privilege, if they see fit, to make the election of judges on a different day and then provides a restriction. They may abridge their term or extend it, but not more than six months at any time. I think it is a good provision to keep in.

Mr. Neill: I am not in favor of striking out this proposition or amendment to this section, for the very palpable reason that the election of judges of our courts should occur at different times. It was so in the state of Wisconsin, where it works well. There the judges of our courts are elected in the spring along with our township officers, which removes it entirely from politics. This takes it entirely from the political arena, where offices are bartered and sold. And for that reason I would move that the Legislature **shall** provide. Substitute the word "shall" instead of "may."

Mr. Stone: I rise to propose a second, for this reason: It seems to me if the argument just presented by the gentleman from Grant is correct, it would place school officers as well in the same position, and my amendment would be to refer this matter to the committee on Elections, and have them provide for the election of school officers at the same time.

The motion was lost.

Mr. Stone: I move to amend and refer this article and proposition to be stricken out, and refer it to the committee on Elections.

The motion is lost.

Mr. Neill: I move to amend by inserting the word "shall" for the word "may" in the second line.

Mr. Brookings: If you amend this so as to have separate elections, it is just a waste of $50,000, and probably $300,000, $400,000 or $500,000. If you are going to frame a constitution, however, for the interests of the people, it would be well to take that into consideration. Are you going to elect judges with school officers because it will be outside of politics? Where did you ever see that? Not once in a hundred times. If you have an election but once in every two years, you will have to make a saving. If you want to simplify everything, have an election but once in two years. If you want the state run by miserable politicians, then have an annual election, and they will want ten or fifteen elections annually. If you want them run by the people, as this Convention is run by the people, have an election but once in every two years, and let them have a holiday, and if the people run things, we will not have such a Legislature as we have, and see what a Legislature you have got! I say, gentlemen, see what a Legislature you have got! We don't want our elections run by a lot of drunken fellows. My old state some years ago had annual elections, and annual Legislatures, but even down there in that benighted country this has been abolished. Are we, in this enlightened Dakota, with people from all sections of the Union, to be bound down to two or three elections yearly? I hope that this Convention will decide that there will be but one election in every two years, for all officers. Talk about school officers, and what do we find? The result is that some miserable scallawag desires to get on the school board, and he has a lot of loafers go to the polls and vote for him, while the people don't know that there is an election being held, and if they do the politicians run them.

If you want to put this election into the hands of the politicians, make it a separate election. If you want the people to take an interest in it, make it only in two years.

The motion is lost.

Section 26 passes without discussion.

Section 28 is adopted by the Convention.

Section 29 is read by the Secretary and adopted.

Section 30 is read by the Secretary and passed.

Section 31 read by Secretary and adopted.

Section 32, same.

Section 33 read by the Secretary.

Mr. McCallum: Mr. President, I move to amend Section 33 by striking out in line 6, on the 6th page, "jurisdiction and," two words, and let it read "and fix the salary thereof accordingly."

I do this for the reason that the section, as it stands, provides that the Legislature may classify the county courts according to the population of the respective counties, and fix the jurisdiction according to the population. Or the act so far as the fixing of the different jurisdiction in one county to what the next county may have, a degree of jurisdiction all the way from a county with 1,000 people to a county with 20,000 or 30,000—different degrees of jurisdiction. I think it is inconsistent with the first part of the section, which provides that all laws relating to courts shall be general and uniform. And it seems to me that this is one of those sections relating to jurisdiction which ought to be general and uniform.

The motion is lost.

Section 34 is read and adopted.

Section 35 is read.

Section 36 is read and approved.

Section 37 is read by the Secretary.

Mr. Cranmer: I move to amend Section 37 by inserting in the 27th line, between the words "of" and "the," the words "the people of." And in line 29, between the words "of" and "the," the words "the people of;" for the reason that the committee on Boundaries will probably divide the state, and I think it is better to have the process run in the name of the people.

Mr. Moody: I am obliged to the President of the Convention for calling my attention to an omission that should be filled, in Section 36, line 23. There should be inserted, "all Judges of the Supreme, Circuit and County Courts and Attorney General, by the Governor." And I would ask, Mr. President, consent to insert here a provision covering the Attorney General, also the State's Attorneys, because they may be elected to districts of more than one county.

A Member: I object to the State's Attorney.

Mr. Moody: We may say State's Attorneys who are provided for in districts, and the Legislature may, of course, make State's Attorneys for each district, and they may make them for each county, and probably for each circuit when the county becomes sufficiently settled. Is the consent given?

Answer—Yes.

A Member: I would like to ask if there is any purpose in line 12, Section 4, where the office of the Supreme Court, Circuit Court, and County Court, what is the purpose of mentioning those offices?

Mr. Moody: It is an additional precaution which makes a vote absolutely void, if cast in violation of the provision.

Mr. Moody: I am informed by the Chairman of the Executive and Administrative branch of the Constitution, that they have a report which will cover this matter with reference to the state offices and attorney. I make no amendment at present, but will do it after we have that report in full.

Mr. Brown: I make a suggestion in regard to the amendment I proposed a short time ago in regard to the jurisdiction of

Justices of the Peace, which I think should be higher than one-hundred dollars.

Mr. McCallum: I refer to the style of the process. I think that the word "the" should be attached to "state," and be a part of the style. It is quoted as not being attached to it. The process should run in the name of "the state of South Dakota."

A vote is taken and the motion is lost.

Mr. Moody: I now move that the report be adopted as a whole, and that it be referred to the committee on Engrossment and Enrollment.

The motion is seconded, and the report amended, is adopted and referred to the committee on Engrossment and Enrollment.

Mr. Moody: I would like to inquire if the report of the committee on Military Affairs has been engrossed. If it has not been reported it strikes me that it should be.

Mr. Taylor: I would state that I have no knowledge whether it is ready or not. It has not been presented.

By the President: I am informed by the Secretary, it is engrossed and in his hands.

Mr. Ward, of Yankton: I would like to ask if it can not be done without an especial motion in each case. That the bills as rapidly as possible after adoption may be placed in the hands of the Engrossing Committee.

Mr. Moody: Refer it to the committee, so that they may go upon the proceedings; so that each report may go upon the proceedings.

By the President: What is to be done with the motion of the gentleman from Lawrence as to the article on Military Affairs?

Mr. Moody: It is reported back as properly engrossed, is it?

The Chair: Yes, sir.

Mr. Moody: Does that appear upon the proceedings reported by the chairman as properly engrossed?

By the Secretary: Yes Sir.

Mr. Moody: Is the report in writing, Mr. Secretary?

Mr. Secretary: It is.

Mr. Moody: I move that it be referred to committee on Arrangement and Phraseology.

By the President: Such will be the order unless objection is made.

Mr. Owen: The report of the Executive and Administrative Committee comes on next in order. If it is not ready, the report of the committee on Bill of Rights is ready. I don't wish to make a motion to call up Major Kellam's bill.

Mr. Kellam: I would say this bill has been ready two or three days; we are ready to take it up.

By the President: It is with a good deal of difficulty that the printers keep up the Journal. It will be more so probably if it is done in open Convention.

Mr. Kellam: I move that the Convention go into Committee of the Whole, for the consideration of the report of the committee on Executive and Administrative.

Mr. Reed: The committee on Revenue and Finance would present their supplemental report. (On file.)

Mr. Updyke: For fear I may not be here, and if it is in order, I would like to submit a minority report upon Preamble. (Filed.)

On the motion of Mr. Kellam, the Convention resolved itself into Committee of the Whole, with Mr. Reed, of Sully, in the chair.

Committee of the Whole

Mr. Chairman: Unless it is otherwise ordered, the Secretary will read Section 1 of the report on the Executive and Administrative.

Section 1 was read, and approved without change.

Section 2 is read by the Secretary.

Mr. Kanouse: There is a clerical error, I think, and an omission in the eighth line, at the word "be," between the words "shall" and "eligible."

Mr. Updyke: Is that word "either" or "he," in the eighth line? My inquiry is whether the word is "either" or "he?"

Mr. Cranmer: It is a person we are talking about. "No person shall be eligible"—

Mr. Owen: I call upon the gentleman from Turner, Mr. Haines, to explain it.

Mr. Kellam: I have not the original report from which this was printed. My recollection would be the word "either" was in the report. I can not state positively it was.

It will save the committee on Phraseology some work; I move it be amended by inserting the word "he."

Which motion prevailed.

Mr. Owen: I would like to inquire if there is any conflict with the provisions of the United States Statute with reference to the eligibility of the governor?

Mr. Kellam: The committee had under consideration that question which the gentleman asks We can not settle the question as to what the members of Congress will do. We can settle the question as to who we are willing to vote for, whom we are willing to make eligible to this office. Each branch of Congress can determine for itself the eligibility of its members. No matter what we do here, we can not control Congress of the United States; if we could we would have done it before now. We can declare, as almost every state in the Union has declared, what persons shall be eligible, but we can not carry our disqualifications to the extent of controlling Congress by it. It is not supposed this provision will control Congress of the United States.

Mr. Owen: Are we doing the fair thing under the United States Constitution when we disqualify any citizen of this state from aspiring to any of these United States positions? We have done the same thing in our Judiciary; we have disqualified some of our ablest citizens from becoming aspirants for any of these positions that they have a right to aspire to. It don't seem to me that we ought to impose any restriction upon that quality of men.

I move in the ninth line, after the word "other," the word "state" shall be inserted. Seconded.

Mr. Owen: I will state why. This will be argued, that when we want to send our Governor to the Senate, the question of eligibility will be raised in the Legislature. This argument of the chairman of the committee will be presented at once, that the Constitution says we shall not send him there. The Legislature want him to go there; they will send him there. It seems to me it will tend to degrade the constitutional provisions in the minds of the people if we over-step them; and if we leave them as it is now, we shall over-step them because we have power to do it. If we say in our state offices, then the constitution means to the minds of the people exactly what it reads. If we find a way to get through, in one place, they will say, why can't we get through just as those big fellows did. I say it tends to degrade the Constitution in the minds of the people.

Mr. Ward, of Yankton: I hope the amendment will not prevail, because I think we are having too many glaring examples of persons using state offices, and even in prostituting the office of Judge, and making it a stepping stone to United States positions. I do not think we want to see it, or help it. Therefore I hope it will not prevail.

Mr. Cranmer: I think it is useless to discuss this point, because the Constitution of the United States decides the point as to the eligibility of the United States Senator, and a United States Representative. It makes no difference whether we leave the wording as it is, or insert this word as the amendment suggests. It will make no difference whatever.

Mr. Ward, of Yankton: I do not think the Constitution of the United States applies to the subject at all.

By the Chair: All those in favor of the amendment offered by the gentleman from Kingsbury will say aye.

By the Chair: Lost.

Division being called for, the house was divided and the Chair declared the amendment lost.

Section 3 was passed without amendment.

Section 4.

Mr. Proudfoot: I move to strike out the words "To execute laws."

The motion had no second.

Mr. Brookings: I would call attention to the line 26—"Convene Legislature;" there should be a "the" between those words.

Mr. Kellam: Yes, sir, that is an error.

By the Chair: The Secretary has it corrected on the original.

Section 5.

Mr. Cranmer: I think I notice a clerical error in line 15, "With the reason therefor." I think it should be plural—"reasons."

By the Chair: Do you move that as an amendment?

Mr. Cranmer: No, sir; I just suggest that as a clerical error.

By the Chair: The Secretary informs me that the word is in the plural in the original copy.

Section 6 was passed without amendment.

Section 7.

Mr. Neill: Does the qualification in regard to "mental or physical disease" apply in the case of the Governor? I notice that it is not enumerated there. The same case might arise in regard to the Governor. Why should this not apply in both cases?

Mr. Kellam: I think if the two sections—Section 6 and Section 7—are read consecutively the objection will be withdrawn.

Mr. Moody: It strikes me that there ought to be inserted in line 40, between the words 'disease" and "become," the words "or otherwise," because there might be contingencies that he would be unable to perform the duties of his office; for instance, he might be absent from the state.

By the Chair: Are there any objections to the inserting of those two words?

Mr. Kellam I think that it is proper. I would concur in the suggestion of Judge Moody, that those words should be in there. I do not know whether they were in the original or not.

Section 8.

Mr. Owen: Strike out the word "in" in the second line, I should say.

By the Chair: The Secretary informs me that the word "in" is stricken out in the original.

Mr. Moody: The word "vacancies" should be in the singular.

Mr. Kellam: I notice in going through this that there are quite a number of inaccuracies, evidently the result of carelessness on the part of the printer; and this of course will all be corrected by the Phraseology committee in accordance with the original report.

Section 9.

Mr. Cranmer: In lines 8, 9 and 22, the word "objection" I think should be plural—"objections."

Mr. Neill: In line 15 it should be "yeas" instead of "nays.'

By the Chair: The Secretary informs me that it is "nays" in the original.

Mr. Cranmer: In the 14th line the word "law" should end that sentence and the word "but"—capital "B"—should commence the next sentence. I suppose that is a clerical error.

Mr. Kanouse: No!

Mr. Brookings: I understand that all of those things will be corrected by the Phraseology committee. Of course if they find bad grammar or bad punctuation they will correct it.

Section 10.

Mr. Kellam: Before the Convention proceeds to business, I desire to call the attention of the Convention to the report of the committee which we filed this morning, in answer to the resolution of Dr. More, and ask the Convention to understand that that committee suggests that in line 39 there should be inserted, I think after the words "public instruction," the words "commissioner of school and public lands." I am instructed by the committee to ask that that amendment be made to this section, before being considered, and the committee will consider it as part of their report. The desire of the committee is to add to the officers that of commissioner of school and public lands.

The Chair: The Secretary will read the report as provided this morning.

Delegate: Supposing there are several resolutions relating to the disposition of school lands, and supposing they were not disposed of for 2, 3, 4 or 5 years after we become a state, what will the commissioner do? I think we ought to take this into consideration.

Mr. Stone: I would like to inquire what that office is?

Mr. Kellam: Commissioner of public and school lands.

The Chair: Now, are there any further amendments to be offered to this section?

Section 12 is read by the Secretary.

Mr. Kellam: This section will need to be amended, and it is so recommended in the report which I have just referred: Insert in it the same words, "Commissioner of school and public lands," and the clerk in reading this will leave out the words as prescribed.

The Chair: Are there any further amendments to this section? If not, the section will be adopted.

Mr. Smith: I move that the report be reported back to the Convention with the recommendation that it be adopted.

The motion was carried, and the committee rose, and made the following report:

The Convention

Chairman of the Committee of the Whole: Mr. President, your committee of the whole house, who have had under consideration the report of the committee on Executive and Administrative, report, with amendments as the Secretary was there given them, and recommend to the Convention the adoption of the report.

The motion was adopted.

Mr. Moody: I move, Mr. President, that the report as adopted by the Convention, be referred to the committee on Engrossment and Enrollment.

By the President: If there is no objection, that will be the order of the Convention.

Mr. Owen: I move that we do now proceed to consider the report of the committee on the Bill of Rights, as reported in this Convention.

Delegate: Mr. President, I move that we resolve ourselves into Committee of the Whole.

The President: The Clerk desires to inform the Convention that the additional reports from the Bill of Rights Committee have not yet been printed. It can be read from the Secretary's desk, if that will suit the Convention.

Mr. Owen: It consists of very short sections only.

Mr. Moody: Are they additional sections, Mr. Owen, or amendments?

Mr. Owen: They are additional sections.

Mr. Moody: Oh, well, we will get along without it.

By the President: The Convention will listen to the reading of the report called for.

By the President: Now, do you renew your motion?

Delegate: Yes, Sir.

The motion to go into Committee of the Whole was passed.

Committee of the Whole

The house then resolved itself into Committee of the Whole, and Mr. Haines, of Turner county, was called to the Chair.

Delegate: Mr. Chairman, I am without a copy of the printed report.

The Chair: I am informed there are none to be had.

Mr. Neill: I do not think, Mr. President, there are any extra copies of this Bill of Rights printed, but it can be found in the Journal.

The Chair: The question under consideration is the report of the committee on the Bill of Rights.

Mr. Owen: I move that we proceed to the consideration of it by sections, beginning at Section 1 of the printed report.

The motion is carried.

Section 1 is read and adopted by the Committee.

Note by the Editor:—A page of the original manuscript of the debates has evidently been lost at this point, covering the consideration of Sections 2, 3, 4 and 5, of the bill of rights.

Doane Robinson.

Mr. Brookings: Section 6 provides that the Legislature may provide for a jury of less than twelve in any case before the Justice of the Peace, and there is no reason why, in civil cases, the jury should be less, and I hope it will be left with the Legislature.

The Secretary reads the amendment to Section 6.

Mr. Owen: If I understand the amendment, it is this, that the Legislature shall have the power to reduce the jury in all civil cases, in all courts?

Mr. Brookings: That is it.

Mr. Owen: The Legislature may provide for a jury of two men or three men, and the right of trial by jury is swept away. I don't care whether there is any jury before a Justice of the Peace or not, but I want the right to a trial by jury granted me in some court.

Mr. Moody: It strikes me that no such intimation as that should be admitted. Certainly, the section would then be inconsistent with itself. The right of trial by jury shall remain inviolate, says the first line. Now the right of trial by jury, of course, is well understood. It means a jury of twelve men, and not less, because that is the history of the jury system, and I think such a radical change as is attempted here only makes it inconsistent and will tend to produce prejudice. The fee of the county has been limited, twenty dollars is the amount fixed, I believe, and I don't see the necessity of absolutely requiring jury trial before Justice of the Peace.

Mr. Jessup: I offer the following amendment to Section 6. In line 33 I move to strike out the word "less," and insert "not less than 8," so that the article will read, "so that the Legislature shall provide for not less than eight.

Mr. Moody: It seems to me it is good enough as it stands, except as to amount.

Mr. Brookings: I would say that the amendment just offered will do away with the provision of the gentleman from Kingsbury, as it provides that there shall be not less than eight, and that is sufficient for all purposes. Before a Justice of the Peace four would do, and in a hihger court it would do to say less than twelve. It is inconvenient to have so many men around. It takes people away from their work, and the pay which they receive is $1.50 a day. Now I am not particular about these juries, but it is no use to enforce eight to decide a little case of $20, or $15, when three men would do as well.

By the Chairman: Do I understand the gentleman to offer a second amendment to the amendment?

Mr. Brookings: I do.

Mr. Jessup: I move that the figure eight be changed to six.

Mr. Moody: I am unfortunate in not being able to make myself understood by my friend, from Minnehaha county without going into a particular and special elucidation of the subject. I supposed that I—

Mr. Brookings: I call the gentleman to order. I believe the rule is that a member shall not speak more than once on the same subject.

Mr. Moody: Let us see what that point of order is, and where—

By the Chair: According to the rules the point of order is well taken.

Mr. Moody: We are in Committee of the Whole. I stated that in the gentleman's amendment, the first part, and the second, and the last, would be inconsistent, and so they would, because I said that the right of trial by jury should remain inviolate. The right of trial by jury of twelve men, it was unfortunate that I did not go further and explain that that rule never did apply except in courts having jurisdiction of courts of record. These courts that have grown out of little controversies between neighbors are called "a poor man's court'. Jury trials are in courts of record, where the jury consists of twelve men. My friend from Minnehaha is a lawyer, has been a member of the supreme bench of this Territory, an honored member of the Supreme Bench and I did not concider it necessary to go in to these particulars It is not inconsistent when you allow a jury in a jus ice court of two, six, ten or twelve. But when you make a jury of less than twelve men in a court of record, then comes the inconsistency, and then it is violate; but it does not become inviolate. I trust my friend from Minnehaha understands what I mean when I say that the two provisions are inconsistent, and I repeat that I am opposed to the amount as fixed here, there should be a limit to it, and what has become a common law rule upon that subject fixes it at a smaller amount, about $20, and it has been held that that rule is not violated when provision is made for the amount.

Mr. Brookings: Gentlemen, you might have expected just such an argument as we have received. It is the same argument used in courts when men catch at straws. We all know how jurors dislike to sit as jurors, and I believe that when we come to treat these matters we will find that eight men are just as good as twelve men.

Mr. Owen quotes from the constitution of Illinois, 1877, California, and Texas, regarding the $20.

Mr. Jessup: It seems to me that in the line of justice, if there is anything that will relieve the people of taxation, that it is right that it should be granted; and simply because it is an old rut, that is no reason why we should not change it if justice demands it, and Congress will allow it.

By the Chairman: The question will be upon the amendment to the amendment offered by the gentleman from Faulk.

Which amendment was lost.

By the Chair: The question now recurs upon the amendment offered to the section by the gentleman from Minnehaha.

Which amendment was lost.

By the Chair: The question now recurs upon the original section.

Mr. Taylor: I move that we strike out, commencing at the word "and" in line 34, to the end of the section, for the reason I believe it an innovation, and one we should not embody in this Constitution. I believe as far as this Territory is concerned, so far as most of the states are concerned, it is untried. It is not in harmony with the practice in the courts. I believe we should make the Constitution on this subject, especially upon this question just as clean-cut as it can possibly be, for we are going before Congress with it and we do not want to have any novel features in it.

Mr. Owen: It is from California.

Mr. Taylor: I don't care.

Mr. Corson: Gentlemen, I do not support the measure to strike out these words. I think the Legislature will very soon be of the opinion that the law embodied in this provision of the Constitution will be needed. I have practiced a number of years in a state carrying a law providing for three-fourths of a jury; it caused great satisfaction in that state. It prevents a disagreement of a jury; it prevents one or two men controlling the verdict and insures a verdict of some kind from a jury, and so far as my experience has gone, has proven a very beneficial measure. I think this provision should be maintained in this Constitution and that the Legislature should have an opportunity to examine into the question, and if they find that it is a law that has worked well in these states in which it is adopted that they should have the right to give us that law in this state—which I believe would prove a benefit to the people.

Mr. Brookings: The doctrine advocated by the gentleman from Lawrence is now advocated by some of the best judges of the country; it is the best part of the section. That the Legislature may from time to time pass a law that three-fourths may decide a case. There is no reason why one man should stand out against eleven. Of course there might be one case in a thousand that one man might be right as against the other eleven or ten or even nine against three. I think a system of jury trials whereby we might get a case decided one way or the other the best.

I can not get all I want. I want to take all the good there is. I believe that is a good provision.

Mr. Lowthian: This is no untried thing; it is nothing new. It may not be adopted in a great many states, but it is in my mind that three states have adopted this plan; I might be mistaken. I think it should be allowed to remain.

Mr. Taylor: I wish to offer one suggestion I overlooked. I think the section may be found in Article seven, Section one, of the Constitution of the United States; that is the one upon which the gentleman from Lawrence stated to this Convention, "I believe that it is the provision of the United States Statute, that the right of trial by jury shall be made inviolate. I believe also in accordance with that idea in all the courts of record the decisions of the courts are uniform, and that means a jury of twelve; and in addition to that, I do not think it would be constitutional," speaking in that way.

I don't know that a case has ever gone up from any of these states, if there are one or two or three states out of the Union that has tried this plan, whether any case has gone up, to test this question.

Analogous to this qestion, perhaps, would be where the courts have decided that the meaning of the word "jury" was twelve persons.

I do not believe it would be constitutional. I merely suggest it as a further reason why that should not be embodied in our Constitution.

Mr. Brookings: Does not that apply in a criminal case instead of a civil?

Mr. Campbell: I would like to hear the amendment.

Mr. Corson: I simply reply to the gentleman from Lincoln, that I do know of a large number of cases, tried under that system, in which the verdict of the jury involved large amounts and in which the ablest lawyers were interested, and I think if there had been any objection, it would have been raised by these gentlemen on the trial of the causes.

Mr. Campbell: His motion is to strike out the balance?

Mr. Taylor: To do away with the three-fourths idea.

Which motion was lost upon coming to a vote.

Mr. Fowler: I move to amend the section by inserting after the word "before," in the 34th line, "County Courts," so that a jury of less than twelve will apply to County Courts as well as Justices of the Peace.

Seconded.

Mr. Jessup: I think it would be necessary to insert the word "and."

The Chair: It will be so understood.

The above motion was lost.

Mr. Kellam: I desire to move to strike out these words in lines thirty-three and thirty-four, "for a jury of less than twelve in any case before a justice of the peace."

I do this for this reason: That that rests in the construction of the courts. Courts have decided in numerous cases that the jury right is preserved inviolate when the jury of twelve men is preserved in courts of record, as has already been suggested by the gentleman from Lawrence; and a jury of six men in justice court is not in violation of the provision of the Constitution which requires the jury right to be preserved inviolate. That is one reason why the words are entirely unnecessary. The other objection is that by implication we require a jury of twelve men in every other inferior court. Our judicial bill has provided for other municipal courts of the same grade as justices courts. Now if we pass this section we simply say that the Legislature may provide for a jury of less than twelve men in the justice courts, then we by implication say that they must preserve a jury of twelve in every other court but the justice court. And we have provided for other courts of the same grade as justice courts, and there certainly would be no harmony, or no reason, for giving the jury of twelve to the municipal court—a police court—and a jury of six to he justice court. Therefore, for the reason that those words stricken out will not effect the meaning of the section in the least, and for the reason that their being in will convey by implication a wrong idea, an idea which I suppose we did not intend to convey, I move to strike out. (Seconded.)

Mr. Owen: The language used is the language of the present constitution of the state of Illinois. In that state police magistrates have **ex officio** jurisdiction of the justice of the peace, so it was not necessary to use the words, "and police magistrates." But in the judicial article we adopted this morning police magistrates "may" be ex officio justices of the peace. It does not follow that they shall, but they "may" be. I should say we should provide here by inserting the words, "and police magistrates." I hardly think we ought to strike it out, because this bill of rights is not only for lawyers and judges and those profoundly learned in the law, but for all the people. It seems to me they ought to be able to know what they know from reading it. I would add the words, "and police magistrates," if acceptable to the gentleman who made the motion.

Mr. Kellam: I would not use the terms of any court, but say, "less than twelve in any inferior court."

Mr. Moody: "Less than 12 in any court not a court of record."

Mr. Brookings: I wish to read from the constitution of the state of Iowa—

By the Chair: Wait one moment, please; the gentleman from Brule has the floor.

Mr. Kellam: If one or the other must be adopted to make it mean what it should mean, and if the chairman of the committee who reports this article, Mr. Owen, prefers to have those words left in, then I am content to strike out "Justice of the Peace" and insert "inferior courts." "Inferior courts" is the way it is usually expressed in constitutions.

Mr. Brookings: I move to strike out the provision as to justice of the peace and insert a provision from the Iowa constitution (reading at length from the Iowa constitution). They put in "inferior courts" and cover the whole question, instead of justice of the peace. I move to amend it by putting in "inferior courts" instead of "Justice of the Peace."

Mr. Moody: I think, Mr. Chairman, that the chairman of this committee has given the better terms. Now, what is an inferior court under the organization thus far provided for may remain a question of doubt, but there can be no doubt when we say "in courts that are not courts of record." There can be no question of doubt then. I think if we make any provision at all we had better make one that is beyond doubt. Now, this character of work of ours is of very grave importance. The Chair knows, with his experience as a lawyer, how the courts have been bothered with such questions, and we should be very careful in the use of language in such a section. The constitution of the United States upon that subject is this: "In suits at common law where the value in controversy shall exceed twenty dollars the right of trial by jury shall be preserved." Of course the jurisdiction of the United States courts does not extend as low as twenty dollars; none of the courts, I believe. Now it strikes me that when we use the term, "The right of trial by jury shall remain inviolate and shall extend to all cases at law without regard to the amount in controversy," we should limit it by some express provision. I would be afraid under an organization of the state that that would require trial by jury in every case. Using the term, "without regard to the amount in controversy," qualifies the first line—"the right of trial by jury shall remain inviolate"—or shall be preserved—it qualifies that, because it extends it beyond what the courts would construe the meaning of that term, I apprehend. I apprehend it would be held by the courts to mean a right of trial by jury in cases at law, not in courts of record, and inconsiderable amounts; but when you add to that the qualifying term "and shall extend to all cases at law without regard to the amount in controversy," then something else is necessary. Therefore I question the propriety of striking out those words, "but the Legislature may provide for a jury of less than twelve." But if that had provided for a jury of less than twelve in any court not a court of record, everyone could have understood it.

Mr. Kellam: Understanding that the gentleman from Kingsbury prefers the words "courts not of record" instead of "inferior courts," I will incorporate those in my amendment.

By the Chair: The question before the Committee of the Whole, as the Chair understands—(hesitating slightly).

Mr. Moody: Strike out the words "in any case before a justice of the peace" and insert the words "in any court not a court of record."

Mr. Owen: That is it.

Mr. Brookings: I move to amend by striking out all in the amendment after the word "in" and inserting the words "inferior courts." I take it that the county court is an inferior court, and that will allow a jury of less than twelve in any inferior court. I believe we should have a jury of less than twelve in a county court. I move to amend as I have suggested.

Mr. Owen (excitedly): I say the gentleman from Minnehaha departs from the principles which are laid down and control this floor, and will set everybody "by the ears."

By the Chair: The Chair hears no second to the amendment proposed by the gentleman from Lawrence. The question recurs upon the amendment of the gentleman from Brule. (Carried.)

Mr. Moody: I dislike very much to differ with the report of the committee, but I do think that we might dispense with a jury altogether in cases of $20 and less, and therefore I move—

Mr. Owen: I don't think the people would like it.

Mr. Moody: Well, I am not very particular.

Section 7.

Mr. Moody: I think it quite important to call the attention of the Convention to one thing in that section, or I would not bother with it. The provision is that the "accused shall have the right to meet the witnesses face to face," and that raises this question, and it is a question which we have had to meet—whether it was competent to pass an act which would authorize the defendant to take a deposition to be introduced on the defense; whether it would not be error in a capital case to read an affidavit saken on behalf of the defendant. The language of the constitution of the United States is "to meet the witnesses against him face to face," and that would preclude the taking of depositions on behalf of the prosecution. Still, I am quite in love with these old principles that have come down to us from the ages, and all I would ask is that we shall not extend it beyond that. I will move an amendment, that after the word "witnesses," in the fourth line of the section—latter part of the section—the words "against him" be inserted, so it will read "meet the witnesses against him face to face."

Seconded and carried.

Section 8 read.

Mr. Stone: I would like to inquire for information, if a capital offense is where a man has committed murder? If it is not punishable by death will it be a capital offense? Will that case be bailable?

By the Chair: The Chairman of the committee is called upon.

Mr. Owen: That was all gone over in the Illinois debates. The same provision of wisdom. Whether the punishment is great or not it will still be a capital offense.

Mr. Moody: Certainly.

Mr. Stone: I would like to know if the language does not necessitate a word just before, if it is saying plainly all persons can be bailable.

Mr. Moody: That is correct.

Mr. Owen: We know some of the constitutions have made that provision, the subject being that if a man did not receive justice, pending the superior court, that he might be bailable so that his case might be disposed of.

Mr. Stone: Why can't that provide that a man shall be bailable, if he has not been convicted of a capital offense? I move to insert the words, "before conviction."

The Chair: It is moved and seconded that in the 44th line, in Section 8, there shall be inserted the word, after the word "persons," "before conviction."

Mr. Moody: It presents, of course, a square rule. This is a great guaranty, and is a declaration of the organic law, that a person shall be bailable, until, of course, his punishment is entered upon. So far as the question is concerned, I do not think that is very important.

Mr. Stone: I have the information asked for, and will withdraw my motion.

The Chair: The section will be adopted.

Section 9 is read.

Mr. McCallum: Mr. President, I would like to ask if this does not conflict with the provisions of the report of the committee submitted by the gentleman from Yankton?

Mr. Campbell: That is in cases of bribery or otherwise, where his testimony shall not be used against him afterwards except for perjury in giving the same. I think that will come up tomorrow before the proper committee.

The Chair: If there is no motion to amend or correct, the section will be passed, and the Secretary will read the next one.

Section 10 is read.

Mr. Campbell: Where are "the army and navy" in Dakota?

Mr. Moody: On the Missouri and Jim rivers.

Mr. Campbell: I move that these words be stricken out. The constitution of the United States provides for the army and navy.

The Chair: Was it a motion made by the gentleman from Yankton?

Mr. Campbell: No, sir.

Section 11 is read by the Secretary.

Mr. McCallum: I move to strike out that word "particularly." It is very difficult to describe the particular place to be searched. A general description is sufficient.

Mr. Owen: "Particularly" is the word that the people of Illinois saw fit to give us, and we copied it.

Mr. McCallum: There is more difficulty to describe down there than with us.

The motion is lost.

Section 12 is read by the Secretary.

Mr. Moody: Is that word "imperiled" or "imperiling?" It ought to be "imperilling."

The Chair: The correction has been made, and the Secretary will read the section as corrected.

Section 13 is read by the Secretary.

Mr. Kellam: I would like to know from the committee something of the necessity for that second sentence, what it is intended to accomplish, why it should be made a part of the Constitution.

Mr. Owen: I would say that we did not know whether it would be provided for or not, and did not know why it should not be got right in there. There is a precedent for it, and I can produce authorities upon it.

Mr. Moody: The only thing you have got in there, it seems to me would cause great trouble. Now, the system in vogue in this Territory always has provided for damages to be assessed with the right to trial by jury as to what they desire, and if you compel a railroad or other corporation of any class reaching through eminent domain, cities, counties or municipalities, to wait until you can have a trial by jury before they can be permitted to occupy the property, you will create a bad precedent in this country. You could not get a road through if you needed one, no matter how badly you needed it. We know the history; there are roads that are necessary. I think the ordinary provisions are much better than this.

The Chair: Does the gentleman from Lawrence make a motion?

Mr. Moody: It is of no more interest to me than anybody else. I move to strike out all the first clause, and insert this: "Private property shall not be taken for public use without just compensation first paid or secured."

Mr. Owen: There are so many provisions in this Bill of Rights so old that we thought they would be acceptable, and I am glad we have struck something that will be acceptable, and I am glad the gentleman from Lawrence has called my attention to it. Perhaps there is some. Ever since I was 10 or 12 years old, I remember of seeing commissioners appointed by the state of Wisconsin coming along to my father's farm—three gentlemen in carriages were named by the railroad company; they took our property, and fixed such price for the land as the railroad company dictated them to pay to the people whose lands were taken.

I will read Section 14 of the California constitution. It reads thus: (Reading)

Mr. Moody: That is a "sand lot" constitution.

Mr. Owen: (Turning his back to the Chair)—

The Chair: The gentleman from Kingsbury will please address himself to the Chair.

Mr. Owen: If my property is taken or damaged, just compensation should be received. In the consideration of a trial by jury, we have already reserved the right of trial before jury inviolate, and there is no reason why we cannot go into the court and say that we desire trial by jury. I know, and every gentleman on this floor knows, that corporations have taken our lands, taken them, gentlemen, at just what price they choose. When a railroad power comes upon me, it is not a matter of contrac ; it is compulsory on my part. Would I not be entitled to ask a proper compensation, and that before a jury? According to the works on damages, it is so in the constitution of Illinois—for 1870. I know that the Supreme Court of Illinois have held many and many a time that where a railroad has sent its cars through a man's property, that it was a wrong without a remedy, but if the engine throws ashes over on a man's land, then there was a physical damage, where damage should be recognized.

Mr. Moody: You have, in Section 13, that private property shall not be taken for public use or damaged, without just compensation, as determined by a jury.

Mr. Owen: I read from the constitution of Illinois regarding just compsnsation—

Mr. Brookings: Section 9, in Corporations other than Banking or Municipal, seems to cover this question. It provides that they shall take an appeal from any preliminary assessment or damage against them, and the amount of such damages, in all cases of appeal, shall be determined by a trial before a jury. Private interests and the interests of corporations stand side by side; we cannot live without corporations; and it seems to me that this section 9 covers the point.

Mr. Cranmer: This section provides that they shall not take property without compensation; but it does not provide that it shall be taken before just compensation is made.

Mr. Campbell: I desire to say this: The motion is to strike out or adopt?

By the Chair: To strike out and insert.

Mr. Campbll: To insert what?

Secretary reads the proposed change.

Mr. Campbell: Upon reflection, I think I am opposed to the measure. I remember what I heard said by a railroad attorney. He said the profession can take care of themselves. The Convention will take care of the people and the railroads will take care of themselves. That is very nice. Gentlemen, how do corporations and an individual get along together? Peaceably, like a lion and a lamb. They can get along peaceably because the lamb is eaten up.

I see in the constitution of the state of Illinois, which is one of the best that can be had, this is the language given, in their Bill of Rights: "Private property shall not be taken or damaged for public uses without just compensation." The word "damage" is put in there because of the construction given the word "taken.' There have been various decisions given. They were of the opinion there that the word "damage' should be included, and put it in I am in favo of it. I shal oppose the amendment, and vote or the section as it is.

Mr. Miller: I am not a lawyer; I have listened with a good deal of interest to the arguments that have been presented here by these legal gentlemen, but it sounds very much to me like a lawyer who is pleading for these corporations; like a lawyer who is retained by them to plead their cause. When I take a farmer's view of this thing, as I am compelled to, as a farmer, and as I believe the farmers on this floor will take it, I think this section as reported by the committee is just what we want. And I believe the farmers in this Territory, when they look the matter over, and are asked to vote upon it, will have very much in favor of the section just as it stands, without any amendment.

Of course we are glad, all of us here, to hear these arguments and get all the information we can on it, but the more I hear of these that are in favor of the amendment, the more I am satisfied it is just what the farmers on the floor want. I am opposed to this amendment.

Call of question.

Mr. Stone: I am not a lawyer, but yet at the same time I can see that it is liable to work injustice a great many times. In cases of an epidemic and it is necessary to take private property for public use immediately; cases of flood or fire where it is necessary t take private property fo. public use immediately I think we ought not to insert these words.

Mr. Moody: I am willing to yield the floor to any gentleman who desires to discuss this further; it was my motion. I would like to answer some arguments made by the gentlemen. It is an important matter to the public; it is an important matter to the people. The discussion here with reference to corporations, that is railroad corporations; there are no other corporations that I know of that can exercise the right of eminent domain. Possibly there may be some in the Black Hills, mills, which are by consent erected by public law, that with the public have the right of eminent domain, and may be more. But railroad corporations are, I believe, about the only corporations upon which the Legislature can confer the right which exists in the state, the right to exercise eminent domain.

Now then, I am not here for the purpose of speaking for railroad companies or anybody else; I am here for the purpose of examining and discussing the proper construction of any proposition that is up before the Convention. This discussion is valuable; it is wise.

The taking of public property for public use is exercised absolutely more by the public, by the state for the use of the public than for the use of any railroad company. It is for highways; it is for purposes such as the gentleman from Potter spoke about, other public purpose.

Now what I am striking at was what was just construction of this language; because it is an important question. I was of the opinion when I first read it, that it did require the payment of this compensation prior to the exercise of the power or right to take the property; and that may be the construction put upon it by the courts; that we never can tell. I prefer the use of the language which had been in constitutions heretofore and which language has received the constructions of courts Therefore, I moved the amendment.

One gentleman tells us that we talk as though we were paid attorneys of these corporations. Why, Mr. Chairman, another gentleman rises to oppose, that the amendment requires that this compensation shall be paid, or secured, before this property shall be taken for public use. So I would have it. I say that before the public shall be permitted to enter my premises and take possession of it, he shall in some way provide to pay me well for it; if we can not agree we shall ascertain the damages through the provision of the law. That is as much of a corporation lawyer as I am. I say, when the public wants a man's property for public uses, let the public pay him.

Of course it is impracticable in many instances under the organization of courts to proceed clear to that point where a man is compelled to accept compensation, but he can be secured by depositing all the money in the court. And then I would not dispossess him of his right to jury trial, but I would secure it to him. I would not deprive him of his right to damages where his property is not all taken. I would confine the property, when a corporation exercises this right to just their necessities. Indeed, the rule upon which the right of eminent domain is based is the rule of necessity, and when that rule does not exist, the right does not exist. It is because the public needs the private property that the society of the civilized world recognizes the right of the public to take the private property upon the ground that the right of the individual must yield to the great public necessity, which includes all men and the whole community. One man cannot set himself up selfishly against the entire community or state in which an individual lives, but his rights must yield to the good of the many. It is upon that ground that this rule is based, and it can only be based upon such a ground.

Therefore I would say, perhaps not in the language of this section. I am afraid of such a section, and I say that the necessity should be limited, and the fee should remain as is claimed in the property unless the fee is paid for.

Sometimes it is destruction where the public requires the property; sometimes destruction of a house, or other improvement. Not so when a mere right of way is desired; that does not destroy the property in any shape.

It should be corrected in some manner. We should be careful in adopting new language. We should consider it carefully and upon mature reflection, as I have said

I am inclined to think that first proposition is more liberal to the public than the amendment which I proposed My proposition is that no property shall be taken—damaged, if the gentleman desire it. I think it means the same thing, notwithstanding the courts may have haggled over it. When a man's property is damaged, it is taken, in legal effect. I say when a provision provides that private property shall not be taken for public use or damaged without just compensation first being secured it is stronger in favor of the individual than this proposition which is before the committee.

Now I trust the Chair and the Convention will pardon me for my unusual energy in what I have said. These discussions are wise upon such questions as these. I think that section ought to be referred to some committee that will examine it carefully, because it is one of the most important sections in the Bill of Rights, with regard to the public. At the same time I would not be unjust to any man or set of men. I care not so much for popular opinion, as that I would be guilty of the least oppression to an association of men any more than a single individual. At the same time I recognize the fact that a corporation is capable of concentration of energy that would be simply impossible under other circumstances, therefore we should with the utmost care guard the rights of the people against the encroachments from such as are capable of using the state and the public in aid of their enterprises.

Mr. Dollard: I hope this section will not be referred to a committee other than the committee now considering it I hope it will not be amended. I hope it will be adopted. Not because I am the father of it; I hope it will be adopted because I believe it is right. Now, let us look at the section. What the gentleman contends he is willing and anxious to bring about is, I think, already brought about, or will be if this report shall be adopted by the Convention as it is. I am somewhat familiar with this provision and I am somewhat familiar with its operation under the laws of the state of Illinois.

Mr. Moody: I understand this is not like the Illinois.

Mr. Dollard: There are some original provisions that don't damage it very much. (Laughter.)

Mr. Moody: Let me ask you this question: Are you in favor of limiting this section—the second clause of the section—so that the benefit to the owner, where it accrues to his individual benefit, shall be taken into account? Why, this limits it. I say that no benefit which accrues to him as an individual should be set off. I say that no benefit to a man's lot or to a man's farm should be set off against the damages he has sustained. You will find by discussion perhaps that these "corporation lawyers" are more disposed to protect the rights of the people than you think they are.

Mr. Dollard: I think the gentleman and myself occupy substantially the same ground. We are both the same kind of 'farmers " only he is a little more eminent in that pursuit than I am (laughter) and a little older in the practice. The gentleman's first proposition was the old and well-known propos tion that private property shall not be taken for public use without ust compensation. As I remember it, that was in the constitution of the state of Illinois, 1848, which was superceded by the constitution of 1870. That didn't work right. Their experience proved that that was not sufficient to protect the people; hence this addition. Their condition and our condition is substantially the same. The reason for the addition here is the same as there—that private property shall never be damaged without just compensation As the gentleman from Kingsbury suggested, it was held, and I think it was uniformly held by the Supreme Court of the state of Illinois, that it was only the property taken that a man could demand compensation for. They might destroy his property incidentally, but if they did not take it he was not entitled to recover a penny's compensation. Hence that provision was inserted, "without just compensation as determined by a jury, which shall be paid as soon as it can be ascertained." The rule was this: These questions were decided by juries. Juries were provided for not only in cases of condemnation of property for the use of railway corporations and for highways—for all purposes. The jury was called before a justice of the peace, a jury of twelve men, and they determined between the parties seeking to take this property and the owners thereof, as to what was just compensation. Under these rules, that compensation was deposited in court and the parties went on with their work. The practice was—and I never heard its legality or the constitutionality of the law disputed—if parties desired to take the land, as soon as the damage was ascertained by the jury to deposit at once. "No benefit which may accrue to the owners shall be considered in fixing the compensation for property take or damaged." I have not a very fertile imagination and hence can not imagine how a highway could go through the lands of several individuals in common without injuring them in common, or how a railway could pass through the lands of several individuals in common without injuring them in common. This was put in as a matter of protection to the people, not as a matter of demagoguery, but in it are the principles of right and justice to the people. It was put in there as much by lawyers as by farmers or anybody else. That provision was suggested by the experience of men. They found there was a reason for it. Their experience had demonstrated that the law was in some manner deficient; that it was deficient in that particular respect; they had not ascertained the fact that there might be special benefits arising to particular individuals along the line of condemnation that should be taken into consideration. Suppose a case. A railroad corporation, or even a state, through its agents (townships and counties) laid out a highway; one man's land, perhaps they didn't touch—they didn't take—but by the grading of the road they succeeded in destroying all value. He had no remedy; his property, or the value of it, was lost; it was damaged but not taken. They went to the next fellow, whose land they went through, and to the next, and so on; and they didn't pay him anything, although the constitution said he should be entitled to just compensation if the property was taken. But they said, "Here, you are benefited to the amount of the damage, and hence we have paid you off and squared the bill." That is the reason that provision found its place in the constitution of the state of Illinois.

So far as the rest of the section is concerned, I have nothing to say. I simply believe that this is wise; I can see no reason why it is unwise. I hope this section as reported will be adopted as a whole, and I hope it will be adopted in the interests of justice, in the interests of the farmer, in the interests of the lawyer, in the interests of the landlord, in the interests of the landlady, if I may say that, but at all events, in the interests of the people, whom we pretend to represent and whom we are bound to represent in honesty and justice, else we have no business here upon this floor.

Mr. Ward, of Hughes: Mr. Chairman, I am something of a farmer myself, and to a certain extent I speak from that standpoint. I believe to adopt this section would be injurious to the farmers. I will take the liberty to reply to the gentleman from Bon Homme. He spoke of that clause being taken from the constitution of the state of Illinois. I have looked over the constitution of the state of Illinois and I can not find it. If I remember right, that clause was reported by the committee on corporations and afterwards stricken out. It is not in the constitution of the state of Illinois. They struck it out for severa' good reasons. In the first place, it is not a good proposition either of law or of justice that a person who sits down and opposes improvements of any kind shall not only be paid for the damages done to him but he shall receive the benefit besides. I say it is not a correct proposition. As a rule when improvements are offered—take a railroad, for instance. When they desire a right-of-way the people generally provide the right-of-way, and here is a man who sits down and asks that his neighbors shall pay for the damage done by running through his property, and he must have the benefit besides. I say it stands directly opposed to the interests of the farmer and to the interests of every individual who desires to have public improvements, railroads, highways, and other improvements, when they are necessary.

Mr. Fowler: Mr. Chairman, I move you, Sir, that the committee rise and report the proceedings to the Convention, and ask leave to sit again. (Seconded.)

The motion prevailed.

The Committee of the Whole arose and the chairman made the following report to the President of the Convention:

Convention

Mr. Haines: Mr. President, the Committee of the Whole, having had under consideration the report of the committee on Bill of Rights, have made certain amendments, agreed to certain sections, and directed its chairman to report progress and ask leave to sit again.

By the President: What will the Convention do with the report of the Committee of the Whole?

A Member: I move that it be adopted.

By the President: It is moved that the report of the Committee of the Whole be adopted. (Carried.)

Mr. Kanouse: I desire to return two resolutions, with the endorsements of the Committee on Legislation. (Sent to Secretary's desk.)

Mr. Haines: I would like to announce to the committee on Education that they are requested to meet in the room below at half past seven o'clock this evening.

Mr. Owen: On behalf of some gentlemen who desire to vote on the prohibition question, and desire to be absent for a short time, and for my own accommodation, I move that the report of that special committee, filed this morning, be the special order for two o'clock tomorrow.

The motion is carried.

Mr. Reed: Mr. President, I move that we do now adjourn.

Delegate: It being desirable for me to absent myself for a short period, and promising that my work in the committee is all done, and all I have to do here is to manage these reports, I would like the cordial permission of the Convention to so absent myself, with a little leeway as to the time of getting back, but I promise you it is my desire to get back as soon as possible.

By the President: If there is no objection, the leave will be granted.

Those members of the Convention who have signed the pay roll for their mileage, will call upon the Secretary after the Convention adjourns and get their checks.

Upon motion the Convention adjourned until 9 o'clock tomorrow morning.

ELEVENTH DAY

September 18th, 1885.

The Convention was called to order at 9:10 by President Edgerton.

Rev. Jos. Ward, of Yankton, offered the following prayer:

Our Father in Heaven, we thank Thee for Thy goodness for keeping us in health and strength, and in giving us powers of body and mind to do Thy work. And now may Thy gracious care be with us all in that we do, and may Thou help us to preserve our homes in peace and health, and bring us to them again, crowned with the riches of Thy goodness, for Christ's sake, Amen.

The Journal was read.

By the President: Are there any corrections to be made in the Journal as read?

Delegate: I think the Journal should show a motion made regarding the style of the process of the State of Dakota. The Journal does not show that that motion was made. It was made and voted down. I made the motion to change the style of the process of the State of Dakota, and it was voted down.

The Journal as corrected was read.

By the President: Are there any other corrections? If not, the Journal will stand approved.

Mr. Laybourne: Mr. President, I am compelled to ask for leave of absence tomorrow.

Mr. Ward, of Yankton: Mr. President, I would ask leave of absence for tomorrow.

By the President: Unless objection is made the leave will be granted. It is granted.

Under the order of presentation of resolutions and propositions relating to the Constitution, Mr. Neill, of Grant, presented a resolution providing for the northern boundary line of the state of Dakota, east of the Missouri river. (On file with the Secretary.)

The order of business was called, and under the head of Bill of Rights:

Mr. Owen: This is the report that was under consideration of the Committee of the Whole yesterday, and they reported progress, and asked leave to sit again. I move that we now go into Committee of the Whole for the further consideration of that report.

Motion seconded and carried.

The President called upon Mr. Ward, of Hughes, to take the chair.

Mr. Ward: I beg to be excused. I would rather be on the floor.

By the President: Mr. Booth, of Custer.

Committee of the Whole

Mr. Booth: Gentlemen of the Committee, not being acquainted with many members here, I may find it difficult in giving the names, but with the kind assistance of our very efficient clerk, and with your indulgence, we will endeavor to proceed.

Mr. Brookings: Referring to Section 13 of the Bill of Rights, I find that a section of the Illinois constitution reads like this—

Mr. Moody: Mr. Chairman, I ask the gentleman to give way to me a moment.

Mr. Owen: Will you give way to me just a minute?

Mr. Moody: The pending question was upon the amendment offered by myself, to strike out the first paragraph, and insert something else. Now, Mr. Chairman, in deference to the opinion of farmers who have been urging the question, farmers in disguise, I withdraw that amendment, and leave it to the Convention. On reflection, I am satisfied with the section as it stands. As far as I feel personally concerned, I wish to relieve the Convention of any necessity for further discussion of this question, and I withdraw my amendment.

Mr. Owen: Both amendments?

Mr. Moody: There was only one amendment offered to that. I offered it—but one amendment.

Mr. Brookings: In the Illinois constitution—

Mr. Owen: I ask that we take the simplest of action on this

Mr. Brookings: I will submit the question.

The Chair: Does Mr. Brookings desire to make a motion?

Mr. Brookings No, sir. I wish to argue just two or three minutes; that is all. Now, it has been suggested by farmers that corporation lawyers are talkingthis question. I do not know whether there are any corporation lawyers in this Convention. I don't know of any; there may be some. I do not think, in the interest of the poor farmers, that a section of this kind should be adopted. You say in the section that damages are to be assessed by a jury. Now, this law has existed in Illinois, and a gentleman told me last evening that it worked splendidly for the railroad companies, but bad for the farmers. A farmer takes his case to the jury; then follows the railroad company; they have a man to select the jurors. You see, the probate judge calls the jury together; they are friends of the railroad. There is no provision for an appeal. It is an imperfect section.

Delegate: Mr. President, I want to know if the gentleman offers a substitute or amendment.

Mr. Brookings: Under benefits which may accrue to the owner in Section 13—suppose I want to open a street through some man's land in Sioux Falls, and by opening that street make the value of the land double what it was before. Shall the city pay full compensation for that land, when it has added double value to it? I think it is an injustice to the people. It is not right for the owner of the land to have it doubled by the poor people of the city. That is why I don't like that part of it. I call your attention to Section 13. I think the committee who reported it would prefer to have it stricken out, because it seems to be a great injustice, and I move that this section be taken up in connection with the report of the committee on Corporations other than Banking or Municipal, and let the Convention decide at that time, as there is no need of discussing it more than once.

Mr. Owen: There is a question here that has not been met, and I think we may as well meet it today, and here. It is the section of the Bill of Rights as proposed here. It should not go to the committee on Corporations other than Banking or Municipal; there is no reason why it should. I don't know why it should be considered at that time, and I don't ask to have it sent there. It is the Bill of Rights that is before us for consideration, to determine the rights of the people against corporations, and it should not be referred to the committee on Corporations other than

Banking or Municipal What I desire is that it be taken up now and the first sentence considered.

Mr. Ward, of Hughes: I understand that the question before the house is to postpone the consideration of this question at the present time?

A Member: Yes.

Mr. Ward: Then I move that we consider the report of the committee on Corporations other than Banking or Municipal, and I move to strike out that portion objected to as conflicting with the section we have just had under consideration.

By a Member: I think that after examination of this Section 9, in the report of the committee on Corporations other than Banking or Municipal, we will find that this point—

Mr. Coffin: I trust that the proposition to take this to the Corporation will be voted down. Many of us are here to vote against it. It should not go to the Corporation. The second clause of the article is worthy of a defense, and we will stand for that defense. I am ready and willing to stand for the defense of it.

A Member: I would like to have the gentleman from Minnehaha read the article from which he quoted some time ago, taken, I believe, from the Pennsylvania constitution. If it is so good and worthy of our attention, let us have it.

Mr. Brookings: The committee on Corporations other than Banking or Municipal do not claim anything particularly original; nor do any of the committees, and I find when I look at it that it comes from different constitutions, and it is as good as can be. Possibly there is something in the others that might be added to this.

Mr. Owen: There is a motion before the house.

Mr. Brookings: The gentleman asked me to read this article.

Mr. Owen: I waive.

Mr. Brookings: I will read Section 9, of the report of the committee on Corporations other than Banking or Municipal.

Mr. Corson: From the reading by the gentleman from the report of the committee on Corporations other than Banking or Municipal, I can see no conflict between that section and the section in the Bill of Rights. If there is any, I would like to have it pointed out. I see no reason why we should not adopt the Bill of Rights. It would meet my approval. I can see no conflict between the two sections.

Calls of question.

The nays have it.

Mr. Owen: I move that we now proceed to consider the first sentence of Section 13.

By the Chair: You are entitled to it in this committee if they are so disposed.

Mr. Owen: Whether disposed or not, the Convention is entitled to it. Do I understand that it is announced to consider the first sentence?

By the Chair: If it is admissible to consider it by line the section will be considered.

Mr. Owen: That is my motion, or what I mean.

By the Chair: If there is no objection, we will consider it in that way.

Mr. Owen: I desire to amend it by adding after the word "ascertained," "and before possession is taken."

Secretary reads Section 13 as proposed to be amended by the gentleman from Kingsbury. (On file.)

Mr. Owen: The object of this motion is to require in every case a party shall be paid for his land before he loses it. We find in all the later constitutions all around the country, "is paid, or secured to be paid as soon as it can be ascertained;" many times it is the construction that is put upon the word "secured," that causes the delay and expense to the ascertaining of it.

My objection to that part of the provision with regard to giving security, instead of actually paying for a man's land, is this: No corporation, municipal or otherwise, cares anything about giving security. It is abundantly able to give security in any amount. The trouble is, if the corporation gets mad at you, you will expend all your means in collecting the money that is secured. It seems to me that it is only right that when private property is taken, compensation shall be made in accordance with the usual principles of common law, at the time.

The courts have differed in regard to this question. Cooley,

Foot Note—These quotations are not sufficiently indicated to determine what was read. D. R.

on Constitutions and Limitations, says this, 562 (here insert). Chancellor Kent says further along, (here insert it). * Now, this is the old constitution of Cooley in 1868, and these later constitutions, after referring to many of them, I find they embody the same provision.

Now we should express ourselves on this point here, and determine whether we desire our money when the property is taken or whether we trust to luck to get it sometime after. Again, it may be urged, and I will consider that question with care, will not the enforcement of this provision retard the march of improvement, if compensation is to be made before it is taken? But I think the remark made by the gentleman from Yankton yesterday in regard to a conversation he had just had with a corporation attorney and certain advice given him to protect the people, for the corporations were strong enough to take care of themselves; that same fact applies to municipal as well as private corporations.

The tendency of the country is for people to gather together in cities. Cities grow faster than the country. What is the population of New York City? Look at the 700,000 in Chicago. People gathering together in corporations; the legislature besieged continually in the interests of corporations, in the interests of private and municipal corporations. I think if there is anywhere a man ought to stand for his state, and for the rights of the people, of the individual man, it is the Constitutional Convention; and that we proceed carefully lest we permit the power to pass from us, which we shall afterwards regret.

All I require in my proposition is, that a man be first paid. Provisions can be made by the Legislature for a speedy ascertainment of the amount. And when determined by a jury in accordance with instructions from other states, if not satisfactory to the party whose land is taken, he would not take it. Still the money is deposited in court; that is done continually in Illinois. They are depositing money there every month in the year. Then if the party refuses to accept the damages as insufficient, he may attempt for a new trial. The money is there; either party may appeal. Or suppose the corporation walks in and takes possession of the land. The value being once found by the jury, the litigation is not ended; perhaps a different measure of damages may finally be established. I say it is within the power of the people to restrict the Legislature so that a trial by jury may be obtained just as readily as three commissioners can be got together; though appointed by the corporation, as is too often the case.

I object to the word "security;" it is a phantom, an idle tale.

I have been watching these things with some anxiety in the states. I do not object to a private corporation coming in and making improvements in the country. Truly, without them we would not be here. They are generous to the people at this stage of the Territorial law. We trust that we shall always live in such harmony; that the rights of each other will be respected; that there will be no difficulty.

We have come here from other states where we have been scorched. Those that have been once burned are afraid of the fire. The question is, what shall be done? Are we in establishing our constitution to allow the powers to pass from us, and, as the state grows older, the corporations grow stronger? They know today we are upon the eve of statehood. The day is very near when we shall adopt a constitution, and regulate these affairs, and they are liberal. They are generous now; we have no difficulty. The only question is, do we desire ourselves to be absolutely protected in this right?

Mr. Fowler: Now, if I understand myself, and I believe I do, one of the purposes of this organized convention is to protect the people. One of these protections is the settlement and improvement of this vast commonwealth.

Now I propose, Sir, to adopt this section of the Bill of Rights in such manner as will protect the interests at large, and tend to the advancement and improvement of all.

I see no material objection to the section as it stands. It seems to me that the word "security" mentioned by the gentleman is ample. It is perfect. That it will secure us all the protection we desire.

It looks to me, however, at this stage of the proceedings, as though the object of the gentleman was to retard the progress and deprive us people who are so unfortunate as to live beyond the end of a railroad track, for instance, of ever obtaining a railroad. Have we to wait for this quasi-corporation to deposit its money, or rather to pay it? What is to be the payment? Is it paid into county court?

Why, most certainly not! Depend upon the person demanding to settle the indebtedness—to liquidate it! The result is that we not only retard the building of railroads, but all public improvements—sewerage system, water system, grading of streets, and every conceivable public improvement you can imagine. I say that if we are to prohibit public improvement entirely that we do it effectually, and let us add to that provision, "Provided, that the amount of money demanded by the owner of any property shall be deposited before the jury is drawn." Let us have assurance doubly sure that we will hamper those "Soulless Corporations," let them be public or private, let them be railroads, or municipal—let us compel them to put up their money; put it where that grasping owner can catch it as soon as the jury is drawn, and let us entirely prevent public improvements in this state, in a state where 96 per cent. of all the persons above the age of five years can read and write. Let us in Dakota step backward into the dark ages rather than be progressive.

Mr. Kanouse: I have a special order at 10 o'clock. I move that we now rise and report to the Convention.

It was so ordered.

Convention

Mr. Booth: Mr. President, your committee has had under consideration Section 13 of the Bill of Rights; made no progress, but arose, and ask leave to sit again.

The report of the Committee of the Whole was adopted.

Mr. Kanouse: I move that we now take up the special order for 10 o'clock. And before proceeding with the consideration of this supplemental report, with your permission, Sir, and for the benefit of the Convention, I desire to go through the report and state the corrections that should be made. "Recommended," in the second line, should be "and its adoption is recommended." In the tenth line, "recommends" for "recommended;" same correction in the 35th line. In the 12th line of second page that parenthetical clause does not belong here at all and should be stricken out. The 8th line of the last page, after Judge Campbell's amendment, read: "The committee recommends the adoption of the following in lieu of Judge Campbell's resolution," and you have it as it was reported by the committee yesterday.

Mr. Campbell: In lieu of all before that?

Mr. Kanouse: In lieu of that which precedes it, offered by Mr. Campbell.

Mr. Owen: That is offered in lieu of the 12th line of the second page?

Mr. Kanouse: Yes, sir.

By the President: What will the Convention do with the report?

Mr. Neill: I move that the Convention adopt the recommendation of the committee to substitute all after line 8 of the last page in place of the preceding portion of the report.

Mr. Corson: I move to strike out the words in lines 6 and 7, "or to select a capitol site." It seems to me that this section is for the purpose of preventing the Legislature from interfering with municipal matters, and that this in regard to capitol site is improperly included in the section, and I therefore move to strike it out.

Mr. Campbell: I just desire to say that this clause, excepting the words "to select a capitol site," is taken, as the delegates know, from the Pennsylvania constitution. It strikes me that with our experience we might add one more item to the list that we shall prevent the Legislature from forever appointing a commission to select a capitol site. Let the Legislature do it by some other mode. I do not propose to argue it, but just to submit it to the Convention. I am opposed to the motion to strike out.

The motion to strike out did not prevail.

Mr. Campbell: In the 7th line of the section under consideration the word "form" should be "perform." I suggest that the Secretary make the change.

The first recommendation of the committee was adopted.

Mr. Conniff: I move that the second recommendation, contained in line 12 down to and including line 17, be adopted. (Seconded.)

By the President: That is not the whole of the section, but only the first subdivision.

Mr. Conniff: I do not mean as a separate section, but simply a proposition of the section. (Carried.)

Mr. Campbell: I move that from 18 down to 33 be adopted as a separate section, as the former one has been adopted separately.

By the President: No, it was not adopted separately except as a subdivision.

Mr. Campbell: Oh, very well.

Mr. Frank: I move that the word "influence" at the end of line 21 be stricken out and the word "action" substituted.

Mr. Campbell: Yes, sir; that is simply a misprint.

The report of the committee as to balance of the section was adopted.

Mr. Williams: On the second page, commencing with section one, that is not printed as the proposition was introduced, and is evidently a mistake. I move that after the word "appropriation" in the first line the words "except the general appropriation bill" be inserted.

Mr. Brookings: I don't believe the gentleman wants to change that section. It is good enough as it is.

Mr. Williams: Were that not inserted it would put it into the power of the minority in the Legislature to clog the wheels of government. It would not be wise, it seems to me, to omit that. We have already provided in acting upon the legislative report what the general appropriation bill shall contain, and it can contain only certain subjects. Would it be wise to provide that the minority, perhaps for partizan purposes, should be able to clog the wheels of government?

Mr. Ward, of Hughes: It seems to me that at this time at least I may be credited with being in the interests of the laboring man and the farmer. It seems to me that the very object the gentleman seeks to escape he is loading upon us by this proposition. We start out as a state with all the public institutions located so that we can step from the roof of one to the roof of another, and I, as one representing that part of the Territory that has no public buildings (we may desire an appropriation for something of that kind at some future time), protest against this section, because it leaves it in the hands of these sections of the Territory who now have these public buildings to prevent the making of appropriations for any other locality. I therefore object.

The question upon the amendment is lost.

By the President: The section is now before the Convention as originally reported.

Mr. Owen: It is upon the amendment.

By the President: The amendment was voted upon.

Mr. Owen: I desire to call the attention of the Convention to one result which might ensue.

Mr. Moody: It was voted down.

Mr. Ward, of Hughes: Mr. President, I would like to call for the reading of the amendments offered by myself.

By the President: The Secretary will read them.

Amendments read by the Secretary.

By the President: Is that what you refer to?

Mr. Ward: Yes, Sir. It was referred to the committee, with instructions that it be printed in the report.

Mr. Owen: If Mr. Ward will give way just a moment to the committee, it seems to the committee, or I might say, to myself as a member of that committee, that the Schedule Committee is within the province of that committee to provide for the submission of these questions, and in the beginning of line 7, I would ask unanimous consent that so much of this report as follows the word "people," in line 7, including lines 8, 9 and 10, be stricken out. The mode to be provided by the Schedule Committee.

By the President: If there is no objection, it is so ordered.

Mr. Ward, of Hughes: I do not desire to press the consideration of these questions. If there is no objection, I move that the report of this committee be adopted, which of course would adopt all those sections.

Mr. Ward, of Hughes: There seems to be some objection to it, so I will ask that the recommendation of that committee in regard to minority reports be deferred until tomorrow morning, and I would also ask that it be made the special order, if that is in order, at 9 o'clock tomorrow morning.

The motion is adopted.

By the President: It is made the special order for tomorrow morning at 9 o'clock.

By the President: The next proposition will be on the question of the proposition submitted by the gentleman from Yankton, Mr. Campbell, commencing on line 13, and concluding on line 7 of the last page, the substitute recommending the change commencing on line 9 of the last page.

Mr. Kanouse: Mr. President, I make no motion, but to say that the minds of the committee was originally that a short clause, providing against special legislation, may be made applicable. That was the original report of the committee, but insufficient, but upon the solicitation of eminent jurists after the substitute offered by Judge Campbell, the committee became convinced that certain exceptions were necessary. For instance, the Legislature might, in spite of this section, pass an act changing the location of a county seat. If the Legislature does, they are the sole judges of such things, and as a rule general legislation could be made applicable, and that their action was constitutional in spite of general legislation. So the committee took the exception offered by General Campbell, and revised it, as they thought proper, in view of the Constitution, as we would find it in the state of Dakota, and drafted a substitute for General Campbell's exceptions. If there is anything omitted in the Schedule exceptions recommended by the committee in Judge Campbell's, it should be included in the Schedule as recommended by the committee, and there will be found no opposition in the committee to include such exceptions as have been made from their recommendations. So that if any gentleman discovers any omission from this schedule, we will be glad to have them specify it.

Mr. Kellam: I call the attention of the chairman of that committee to the matter of laying out townsites and roads, more particularly what is included in line 18 of the original compilation of Judge Campbell. It seems to me that this is a very important item, that should be inserted in the substitute offered by the committee, and upon which the Legislature should be prohibited from legislating. My idea would be to add to line 16 in subdivision 5 a proposition something like this: "Laying out, opening, vacating, altering town plats, roads, streets, alleys or public grounds."

Mr. Campbell: The committee, I think, have taken a very uniform proposition. I call the attention of the Convention, however—

By the President: There is one proposition before the house now, upon Mr. Kellam's amendment.

The proposition was read by the Secretary.

The amendment is adopted.

Mr. Conniff: I would state—

By the President: General Campbell has the floor.

Mr. Campbell: I will yield the floor.

Mr. Campbell: I would call the attention of the Convention—

Mr. Conniff: The words "General Assembly" are in this report, instead of "Legislature," evidently following the Illinois constitution.

Mr. Campbell: I would call the attention of the chairman of the committee to this provision, on the last page, in lines 26 and 27, as found in the Illinois and Pennsylvania constitutions, from which they are copied verbatim; also this general prohibition, which the committee will recommend be adopted. We shall not say that they make special laws. And I move as an amendment to the report of the committee, between lines 26 and 27, "In all other cases where a general law can be made applicable, no special law shall be enacted."

Mr. Kanouse: Between lines 26 and 27?

Mr. Campbell: Yes, sir.

The motion carried.

Mr. Kanouse: I desire to call the attention of the gentleman to one feature in this recommendation as found in line 16. We have made a little change there from the recommendation of Judge Campbell.

Chairman of the Committee: That was purposely omitted for this reason: There are villages that have charters that are granted by the laws of the Legislature of this Territory, charters that have been granted without the knowledge of the people interested, but by one or two gentlemen who desire to secure special charters, and the first thing the people know who live in these villages, in regard to a charter, is that a gentleman has returned to the village with a charter, and these charters, in two cases that I know of, are offensive. They have become so to the gentlemen themselves who secured the charter, and we desire to secure amendments to that charter, and that is the reason those words were left out by Mr. Campbell.

Mr. Owen: I sympathize with those unfortunate people, and move to adopt the amendment as proposed by Mr. Campbell. That is to prohibit the amendment of any of those things.

A Member: Are we now considering line 24 in the supplemental report of the Legislative Committee?

Mr. Owen: If the Legislature is going on to amend and amend, year after year, from now on, what are we going to do?

We certainly don't want to perpetuate it. Judge Campbell's amendment is word for word, from top to bottom, the Illinois plan. They were troubled as we are, with charters which were not agreeable to the people. And under this Constitution, as each charter is docketed, as it is examined from session to session, time without number, until it is in a condition to issue, then it is secured by those in power.—The city of Chicago, with its power, its population and influence, could go to the Legislature at Springfield and get any legislation they wanted. Chicago is now under the general law, but the time has been when the city was a million and a half in debt; they could not run the machinery, and it came to that pass that the common council determined that they would discharge the police force, shut up the schools, and turn off the gas. The citizens and Field, Lieter & Co., and others, bought up the warrants of the firemen, school teachers, and police, and so carried Chicago through.

Mr. Campbell: I call the attention of the gentleman who made this amendment to the fact that if he strikes out the majority in town, city or village, under that amendment you give the Legislature the power to act.

Mr. Owen: As I understand the amendment, it is to substitute lines 24 and 25, on page two, by line 16, on page three, on the last page.

The amendment is adopted.

Mr. Campbell: I call the attention of the gentleman to the omission of the word "fines," and ask if it is not a mistake?

Mr. Kanouse: It is an omission.

Mr. Campbell (to the Secretary): Please insert the word "fines," as its omission is a mistake. I also move that lines 39, 40 and 41 be adopted as part of the report of the committee, inserted after line 38.

The motion is seconded and adopted.

Mr. McCallum: I move that the subject of special legislation as recommended by Mr. Campbell, on the second page, be supstituted by the report of the committee on the third page.

The motion carried.

By a Member: I move that on the second page, commencing with line 11 and including line 7 of the last page, be substituted by the report of the committee, and amendment made thereto.

By the President: The motion prevails.

Mr. Conniff: I would ask, Mr. President, for a division, if it is not too late. I know I did not understand it.

By the President: I was waiting for some one to call for division. If there is no objection division is ordered.

Mr. Kellam: I have been trying to get the attention of the Chair since he declared the motion carried in the affirmative. I do not want to argue the provision now before the house. I desire to say that personally I believe the substitute as amended was much better than the proposition offered by Judge Campbell. But I think we have very much injured the substitute by the last amendment that we made. I do not know that it is a very serious matter, but I did not anticipate the vote or I should have stated what was my opinion with regard to it; I presume it is too late now. For the purpose of getting the motion before the house again I would vote for the adoption of Judge Campbell's resolution in place of the report of the committee, for the purpose of moving an amendment.

The Chair: The question is upon the adoption of this by the Convention.

Mr. Kellam: I thought the Chair had just called for a division.

By the President: That is the proposition before the Convention now, will the Convention adopt the report of the committee, that is, beginning on the second page, commencing with line 13, and concluding with the 7th line on the last page?

Mr. Kellam: The question now before the Convention is, shall the Convention pass the resolution offered by Judge Campbell?

The Chair: It is practically that.

Mr. McCallum: I do not understand that to be the object of my motion at all.

The President: Reduce your motion to writing and send it to the Secretary.

Mr. Stone: I do not believe it was generally understood what we were voting upon. I move a re-consideration of the motion on changing the report of the committee as amended by the report of Judge Campbell.

Which motion is seconded.

The President: The vote is not announced yet; the resolution is being prepared to be sent to the Chair.

Mr. Moody: The motion of the gentleman from Beadle county, as I understand it, is this: We have under consideration the question of the report of the committee; and the proposition to adopt the report of the committee. Now the proposition is to amend that report by substituting the resolution which was offered by Judge Campbell, of Yankton county. Now, it seems to me, Mr. President, this is an amendment to an amendment made in the first instance. Now if it carry, the proposition will be the substitute or resolution of Judge Campbell in lieu of the report made by the committee. And it seems to me that before that is done it is perfectly competent to amend that resolution; that is an amendment to an amendment. I appeal to the Chair whether it is not the proper proceeding.

By the President: I can tell best when I know what motion is before the Convention. I have asked the gentleman to reduce it to writing and send it up.

Mr. Moody: Does the Chair mean the motion of the gentleman from Beadle?

By the President: Yes, sir.

Secretary reads the motion of Mr. McCallum. (On file.)

Mr. Moody: That is the motion as I construed it, a motion to amend the report of the committee. Now, Mr. President, if there is no other amendment ahead of it, I move to amend this substitute by striking out of the subdivision, commencing on line 40 after the word "officers," to-wit, these words: "During the term for which said officers are elected or appointed," So as to provide that no special laws shall be passed upon the subject creating, increasing or decreasing the fees, percentage and allowances of public officers at any time. I dislike this limitation, "during the term in which said officers were elected or appointed." I suppose this was done over in Illinois in this way: Some chap got some idiosyncrasy in his head and moved some amendment and added that to it. I can't imagine why it should be confined to that. It strikes me that the laws relating to the creating of fees, increasing of fees and decreasing of fees and of percentage and allowances of public officers should be provided for in special act.

Mr. Campbell: I think if the gentleman will look at this a moment he will see this, that the clause is perfectly proper. For instance, as in many of our states, certain offices have outgrown all reason; become too large; reached twenty-five or thirty thousand dollars. The Legislature wants to remedy that; they can not remedy that except by special law. Suppose, to illustrate, the office of Register, or Recorder, or Sheriff, of a particular county, become larger in their revenue than they ought to be, and the county wants to remedy it. You will need a special law. But this provision provides you shall not make a special law during the term for which any officer is elected or appointed. Thus you can not strike a blow at an office for any reason. I think the provision is correct.

Mr. Moody: I do not understand the argument of the learned gentleman. Let us see—now he says it is impossible to reach it except by special law; then he prohibits special laws on that subject.

He can not reach it except by special laws, and the special law is prohibited. How is he going to get at it? That is the effect of the argument.

But the classification and the generality of the law is by this subdivision confined, as the Chair will see, confined to the time during which the officers are elected or appointed. Now, at that time, covering the term for which they are appointed, this special law is prohibiting, but at any other time a special law may be enacted. For instance, in the county of Minnehaha there may be a clerk of the county provided for by law. He may have yet a year to serve after the Legislature meets. That Legislature during the term of his office can not pass any special law relating to the fees of that office but that legislature may provide that when the next man takes office the fee in that county shall be greatly increased. Now, the evil is not remedied by any such inhibition as that. What we want is that there should be no privileges granted to any particular locality or municipality in that respect, but the law shall be general in its scope. If the Legislature was prohibited from increasing any fees or creating any additional allowances to any officers while in office, I would be perfectly satisfied with that sort of a provision, but now we are upon the question of what is proper special legislation. We are seeking to put an inhibition upon the legislative assembly—curtail their powers—compelling them to enact general laws. Now, upon the question of creating, increasing or decreasing fees, or allowances, the legislature is confined only in the passage of general laws to those cases where the law applies to persons already in office. Why, the very evil which the learned counsel stated here, you might find an officer in some particular locality whose fees under the operations of the laws turned out to be enormous, much beyond what they ought to be Some mistake of the legislative assembly or some peculiar circumstance has arisen; and the gentleman says that sort of an evil ought to be corrected. Very well, but it can't be corrected while the incumbent is in the office except by the general law, and he says the general law wouldn't be applicable. Of course not, or possibly not, because there might be only just that instance. It is very seldom that any attempt is made by the Legislature to decrease the fees of officers while in office, and one of the inhibitions should be that the Legislature has no power to increase. If a man takes office, let him serve under the law as he finds it.

A Member: "Question."

The motion was lost and the amendment was declared adopted.

Mr. Neill: I would amend by striking out line 35, "The protection of game or fish." This may seem a small matter to most of the members of this Convention, from the fact that we find no particular need for them in other localities—in their localities. On the northern boundary of the new state there are two lakes that extend for a distance of 70 miles, and they are full of fish, such fish as we want to protect, and they are not protected by any laws that we have ever had in the Territory yet—and they have been very strict and wholesome laws too—but they do not apply to those lakes. Special legislation would be necessary to reach them; they are the boundary line. I think in this case it would be very wise to exclude this from the inhibition, and I move to strike it out.

Seconded and carried.

Mr. Fowler: I move to amend line 37 so that it shall read as follows: "Chartering or licensing ferries, toll bridges or toll roads."

Seconded and carried.

Mr. Stone: I rise to oppose the motion now before the house, to substitute, for this reason: We had the report of the committee before us in the first place; we amended it in several places and were getting all the good points of both into the proposition of the committee, and now we are looking over the other proposition and beginning to amend that. And for that reason I think we had better stick to the report of the committee and amend it and get through with it.

Mr. Kellam: I move to amend lines 25 and 26 by striking out these words, "or changing or amending the charter of any town, city or village." I believe that the standing committee who reported the substitute for this proposition acted wisely in striking out those words, and I think so for the very reason that was suggested by the chairman of that committee, and by a gentleman in the middle of the house, whose name I do not know. Now, we all know that there are a good many cities and incorporated villages in this country now who are acting under charters that are entirely satisfactory; charters that were not stolen from the Legislature and taken to those towns for some private purpose or to accomplish some personal end, but charters that are the result of care and deliberation in their preparation. I live in a city under a charter which is perfectly satisfactory to our people. Just to illustrate my idea, we have a system of waterworks there. The waterworks are made to conform to the charter and the charter is made to conform to the waterworks. We are perfectly satisfied with our charter now. Suppose at the end of the next year, instead of three wards in our city we want four wards. Now under this provision, under the amendment which the Convention has adopted as a substitute, we must give up our old charter, with which I am satisfied, if I understand this (I see the gentleman from Grant is shaking his head and I don't know but I may be wrong)—but I am making my argument upon that understanding, that we prohibit the Legislature from amending our charter. Now we must either go on with three wards in our city, or else give up the charter that we want and organize under some general law of the state, which may not be what we want; it may not be in harmony with the provisions which we adopted under our charter. Our charter was carefully made up, and defined the rights and duties of the officers connected with these institutions. Our institutions may be peculiar. Sioux Falls has a system of waterworks and other institutions which have been built up under their charter. Now, suppose they want some important change in their charter, like the addition of another ward. Must they be obliged to give up their charter and reorganize under the general law, or go along with the inconvenience of a less number of wards? I see my friend Mr. Neill looks as if he believed I was wrong in my idea of the position this question has taken, and perhaps I am.

Mr. Owen: I rise to a point of order. That is that we have already voted on this and adopted it.

By the President: The point of order is not well taken. The amendment was adopted on the report of the committee. Now the motion before the Convention is that the recommendation of General Campbell be substituted for the report of the committee, and upon that amendments are now being made, and this is one of the amendments that the gentleman from Brule now proposes.

Mr. Kellam: The question is, as I understand it, precisely. Under that order of business I offered the amendment to the resolution introduced by Judge Campbell, and in support of that amendment I have made the remarks that I have made. I say in conclusion that I would much prefer the substitute reported by the standing committee if we could reconsider the amendment that we tacked on to that subdivision, refusing to allow the Legislature to amend already existing charters.

Mr. Campbell: I think that the gentleman's main objection, namely, that by prohibiting special laws upon charters, charters of towns, cities and villages can not be amended, arises from a misapprehension. I understand that as soon as a legislature shall come into existence under this constitution a general law will be provided by which all villages, cities and towns can be incorporated, and that instead of having to go to Bismarck, a long distance and entailing great expense—or wherever the capital may be—to get your charter amended, why under the general law a city, town or village can amend its charter at home. So it seems to me that the gentleman's objection is more applicable to the measure he advocates than to the one he proposes here. But if there is any doubt about that I will move as an amendment to his amendment, the following, so that there can be no question upon it: "Except as to existing towns, cities and villages, where general laws will be inapplicable."

Then, Mr. President, it even leaves the applicability to the provision to guard against those things we do not want. There are those new counties west of the Missouri, where all sorts of jobs would be attempted, and some few men would attempt to put the court house at some point to suit themselves. By the provision of this, those things will be stopped. I move that as a substitute for the amendment.

Delegate: I hope that both amendments will be voted down.

Delegate from Turner: I rise to a point of order.

By the President: State your point of order.

Delegate: This is the third amendment. I understand, Mr. President, the original motion was the report of the committee, that it be adopted. Then Judge Campbell's motion made to amend the substitute, and the motion of the gentleman from Brule is made to amend that. Now, we have another amendment.

Mr. Moody: Mr. President, I might have understood the gentleman. Does the gentleman from Turner raise the point of order?

By the President: Yes, sir.

Mr. Moody: I think that is about the size of it. The first motion was a motion to adopt the report of the committee. The second motion, which was an amendment to that motion, is a substitute offered. The motion of the gentleman from Brule was to amend the substitute, which was proposed, so that it is a little out of order.

By the President: The question before the Convention is upon the amendment proposed by the gentleman from Brule.

Mr. Kellam: If I understand Mr. Campbell's amendment, I will accept that amendment, if the house regards it as desirable.

Mr. Moody: If you accept the amendment, and it is allowed, then I understand it is a question of privilege of incorporating some further provisions, that only where general laws can not be made applicable, that special laws be allowable.

Mr. Kellam: I accept the amendment of Judge Campbell.

Delegate: I wish to oppose the amendment of the gentleman from Brule. and will say that the section as it now stands will suit me, and I think will suit the people that I partly represent much better. Our town suffers now from the evil practice of the Legislature having power to amend city charters. The charter of the town in which I live was changed without the knowledge of the people,except three or four, and the first intimation that the residents had was after the adjournment of the Legislature, and from the effects of that the town is now suffering from the loss of revenue by part of the liquor license going to the county. We prefer to have the mattter left in a shape, that under a general law we may fix our charter, so that we may rest at night when the Legislature is in session without fearing that the charter will be changed. Let us do away with this special legislation. It seems to me if this is done the law in force in such States as Iowa, Illinois and other States, is good enough for us. I might say that our city has a fine system of water works, etc. I see no reason why the convention should not provide general laws for the government of the Legislature.

Mr. Kanouse: If I may speak, sir, I say that the amendment to the substitute is largely an idiosyncrasy, and that the report of the committee, as amended certainly makes a wise provision, and that it is possible, and that we are ready to adopt it, and I hope that the convention may be prepared to vote upon its several propositions; it seems to me wisdom with reference to the adoption of the motion. I move the previous question.

By the President: The previous question, I presume, is on the motion of the gentleman from Beadle; not on the motion to adopt the report of the committee.

Mr. Moody: Mr. President, if the main question is ordered, the first question will be upon the substitute offered to the amendment by the gentleman from Brule; the next will be the adoption of the substitute; the next the adoption of the report of the committee.

By the President: The question before the convention is, shall the main question be now put.

The motion is carried, and the previous question is ordered.

By the president: The first proposition is upon the amendment proposed by the gentleman from Brule.

Mr. Conniff: Will the Chair have the proposition read? Let us learn what is the proposition of the gentleman from Brule.

The amendment was read.

The motion is lost.

By the President: The question before the Convention is upon the substitute.

The motion is lost.

Mr. Owen: Before the question is adopted, I ask for division.

By the President: I am informed that I neglected to recogonize Mr. Owen from Kingsbury county, on the last proposition, calling for a division.

The motion was lost.

By the President: The question before the convention is, shall the report of the committee be adopted?

Mr. McCallum: Can an amendment be offered?

By the President: No, sir.

Mr. Campbell: I would ask unanimous consent of the convention to point out one very grave mistake. I will vote with the majority, and ask for its reconsideration.

The motion is carried.

Mr. Campbell: I would move to reconsider the vote by which this report is adopted, if I can get a second. The object, as stated to the convention, is that the convention correct what is probably a very grave error or an oversight. It is on the last page.

By the President: Did you vote in the affirmative?

Mr. Campbell: I voted to adopt the report. In line 23 on the last page, "for granting to any association, individual or corporation" it should be here, "any special or exclusive privilege or immunity," they have inserted the words "except municipal." I do not think that they should grant any special or exclusive privileges to municipal corporations.

By the President: The question is upon the question to reconsider the last vote.

Mr. Kellam: In order that we may vote intelligently upon this question I think it would be advisable to presume that those words were put in there for a purpose, and to ask the committee why they were put there.

Mr. Kanouse: So far as I am able to answer on behalf of the Committee, I would say: that the 9th exception was taken from the Minnesota exception, and it occurs to me now, that that amending of special privileges or exclusive privileges to municipal corporations, was subject to those exceptions.

Mr. Campbell: I move that the report of the Committee as amended be adopted.

The motion is seconded and the report adopetd.

Mr. Fisher: I offer a report on the state institutions.

Mr. Ward of Hughes: I move that we now take up the report of the committee on corporations, other than Banking or municipal, although it is out of its regular order.

Mr. Kanouse: I move that the report of the Legislative Committee be adopted as amended and referred to the committee on Enrollment.

Mr. Coffin: I understand that section 28 was left unfinished.

By the President: My understanding was that it took the balance of the last page commencing with line 9; the chairman of the committee states that after the letter "A" in brackets, was a recommendation from them.

Mr. Coffin: The report of the Legislative Committee, the original report, was never finished.

By the President: I decided that it was, the Chairman of the Committee told me that it was, and I so announced to the Convention.

Mr. McCallum: It is on the original report, section 28 of the original report, not the supplemental report.

Mr. Coffin: I desire to offer an amendment.

By the President: The secretary tells me that section 28 was considered by the Committee of the Whole and recommended that the Convention adopt it, but the Convention had taken no action upon it.

Mr. Moody: Was not the motion made to adopt another report, as amended, by the gentleman from Minnehaha? My understanding was that the convention had never acted on section 28, on the report relating to the Governor, that is my recollection, and I understood the President to say that the Secretary announced that the report shows that the Committee recommended the adoption of that section, as well as the rest, but that it had never been acted upon by the Convention, if it is not so, then I ask for information, I did not hear clearly, whether the gentleman from Minnehaha did this morning vote the adoption of this supplemental report, or whether he moved the adoption of another report as amended, and the Chair announced that if there was no objection the motion would be considered as adopted, if I am correct then the whole business has passed and it should go to the Committee on Enrollment.

Mr. Miller: I was in the chair at the time this report was under consideration, and it is my recollection that this last section which was spoken of by the gentleman from Beadle, was left un finished.

Mr. Brookings: Section 28 was certainly read.

By a Member: That isn't the question.

Mr. Moody: Did the gentleman from Minnehaha move this morning that the balance of the original report be adopted by the Convention?

By the President: I have no recollection of such motion.

Mr. Moody: What is the report of the Secretary as to the Committee of the Whole?

By the President: There was no recommendation made with reference to section 28.

Mr. Coffin: I wish to make an amendment, or offer a recommendation that no person, directly or indirectly, shall employ a relative or friend of such governor. I think it is time this thing should be stopped, and I think I speak advisedly when I say this.

Mr. Fowler: I move to amend his amendment by adding thereto that he shall employ the worst enemy he has in the state.

By the Chairman: The gentleman is out of order.

A Member: I would like to ask the gentleman what he means by the word friend or relative.

Mr. Coffin: I mean I want this thing stopped, that the fact of a person being a relative or friend must not secure to them an appointment.

The motion is lost.

Mr. Brookings: I move the adoption of Section 28.

The motion is voted upon and the section adopted.

Mr. Kanouse: I move, Sir, that the report of the Legislative Committee be presented to the Committee on Engrossment and Enrollment.

The motion is seconded and carried.

A member: I move that we take up the Bill of Rights for consideration.

Mr. Walton: I move we now adjourn.—Which motion prevailed.

ADJOURNED.

Afternoon Session.

Mr. More of Beadle: I beg leave to offer the report of the Committee on Education and School Lands.

The Chair: If there is no objection it will be received. It was received.

Mr. More: I also have a petition addressed to the President of the Convention and Members, bearing numerous signatures of a body of Christians, bearing upon the subject which engages our a tention at this hour.

Communication is read by Secretary. (On file.)

Mr. Owen: I now move that we consider the report of the Special Committee on Prohibition and recommend its adoption at this time.

Seconded.

Call of "Question," "Question."

Mr. Lichtenwaller: We do not want to proceed hastily in this matter; I think it is probably the most important issue there is before this country; I look at it in that light; I am opposed to prohibition from principle. I was opposed to the submission of this question to a vote of the people at this time, whether embodied in the constitution or subitted in a separate clause; all that is asked is to have this question submitted in a separate clause; it is made a distinct issue; and what is the result; it will occasion a warm struggle between two great contending factions of this Territory; it will be warmly contested and the vote upon it will be very close. The two factions I take it are evenly balanced about in this Territory and the majority either way or the other will not be large. One of these factions will certainly be defeated, and one will feel much chagrined and disappointed because of such defeat; will they quietly submit? or will they with renewed vigor and with renewed energy take up this fight before the Houses of Congress, and leave no stone unturned to have their efforts prevail?

Now you must remember that this constitution when adopted and ratified by the people, will then have but just begun its career. You take this constitution and go before Congress and plead for admission; they will tell you, "yes, this constitution was adopted by the people, by a large majority but on account of some unwise move, on account of some indiscretion on your part a large portion of your population are now clamoring against admission just as hard and just as strong as you are for admission." This, Mr. President, is what we are afraid of.

They will tell you also, "should you come before us thorougly united, should you come before us with something like unanimity we might grant you what you ask; but as long as there is this contention as long as you are rent in twain we can not give you what you ask."

My friends, consider, is not this thing giving Congress the best kind of a pretext to indefinitely postpone hearing our prayer?

But remembering that there is so large a clamoring of our people, and a respectable portion thereof, to have this question submitted, and to be given the right to vote upon this question at this time, believing that the will and wish of our people should be paramount and supreme, for this reason and this reason only I shall vote for Mr. Owen's resulution. And we are willing to accept the issue. We shall vote against this measure at the polls; we shall put forth our best efforts to defeat it at the polls; but if we are defeated, we shall quietly submit; but it shall in no wise diminish our ardor for admission. (Applause.)

For the liquor element I can not speak, but such as are anti-prohibition from principle, I know we will submit; they shall be just as much in favor of admission after such defeat as before—and they shall in no way check, hinder, or in and way retard the advancement of our common cause.

Will the prohibitionists do as much? Will our ardent prohibition friends promise as much? I would like to see every one of them place himself upon record right here, and state what course they shall pursue in case they be defeated at the polls next November. If they do this I shall feel a great deal easier than I do now.

Mr. Kanouse; I desire to meet the honorable gentleman from Hughes in the same spirit of fairness that he has tendered those of us who differ from him in principles concerning this matter of prohibition, and for one to say that when we shall submit this question to the vote of the people, if as he says, the decision of the people shall be against us, so far as I am concerned we accept the situation, and from that moment Mr. Lichtenwaller and myself are one in purpose, in obedience to the expressed will of the people at the polls. (Applause.)

Mr. Owen: Here too.

Mr. Moody: This is a matter of very grave and serious importance, and perhaps upon it may turn the success or loss of the cause that we are striving for. It is the dangerous rock in the channel that we are seeking to swim in to victory and to that point of victory that will bring to us self government. Now, it being a question of such grave importance, it ought not to be lightly considered by us, or lightly passed over; it ought to be seriously considered by us, and in every phase of it, not only in reference to the principle that is involved but also in reference to the manner that principle shall be submitted to the people for their decision.

Now, Sir, I happen to be among those who are upon this question, so far as this movement now is concerned, perfectly indifferent. I have lived in this Territory for twenty-odd years; I have known that this people for years have been struggling for self-government; I have witnessed, as you have witnessed, the evils of living under a government that is clearly one held at the will of a foreign tribunal. I know, and you, Mr. President, know the evils which result from the condition of affairs that surround us, and I have been ever willing to postpone every consideration of domestic economy until we are clothed with the right of self-government. Then I would have a right, and it would become my duty, as a citizen of the commonwealth, to determine for myself what position I should take upon any question of domestic economy or morality. Until then I am not called upon by any consideration that I am aware of, to determine that question. Putting it in a different manner, my first, my fondest, my most earnest hope, which buries all other considerations beneath it, is that I, in common with my fellow-citizens of this Territory, may be clothed with the attributes of American manhood and become self-governing. (Applause.)

Now, it is that ultimate end that we desire; it is that purpose that we are here to accomplish; and I am unwilling to allow anything in the way which in my judgment will tend to postpone or prevent it. Therefore, Mr. President, I want a careful consideration of this question; and I desire that this Convention shall so carefully prepare this question as that it shall not result in the defeat of that ultimate purpose beyond hope of resurrection. If the people of this territory shall bury this constitution beneath their ballots, I say to you, gentlemen, that it is a postponement of that wished-for result for years and years and you can't avoid it.

Now, I want to say, Mr. President—for I am never wanting in frankness—that I am perfectly content, as a member of this convention, having considered it with the utmost care, having given it all the study that I was capable of during the time that I considered it—I am perfectly willing and content that a separate clause embodying this sentiment shall be put before the people at this time. I firmly and honestly believe that it will not result in either retarding or defeating our ultimate hopes if it is in the way in which the people have a chance to act upon it and all portions of it independent of all other questions connected with the constitution, If the people of this territory then, having that opportunity and power shall vote to insert the clause in the constitution prohibiting this traffic, I shall say "Amen;" if they shall vote to the contrary, believing that some other policy is better, I shall say "Amen" to that.

Now, Mr. President, I have made these remarks for the purpose of calling the attention of the chair and the convention to certain matters in this report which I believe this convention ought not to adopt, saying as I do, that I am perfectly content that this convention shall adopt a separate clause and put it before the people, I do not desire that the constitution as a whole shall be imperilled in the least by it. I want the two propositions to go side by side and each party have a perfect right and a perfect opportunity to take one or both, or neither, as they see fit. I do not want to drive every man who is opposed to prohibition. He has not the learning, he has not the time to give it and he does not give it the consideration which this provision proposed here will require at the hands of everybody. One proposition I most strenuously object to: this requires a certain form of ballot; it requires that it shall be printed or written on every ballot for the constitution. This question that is submitted will count against the constitution in legal effect because it makes that vote void, and those who are in favor of the constittion do not get the benefit of their vote, Let me call the attention of the chair to this provision: "And on the same ballot immediately following the vote upon the remainder of the constitution, so that every voter shall have an opportunity to vote upon said section and adopt or reject the same—(I am reading from the 34th line down)—and this from line 39 is what I object to—— "And that no ballot be counted for or or against the constitution or any part thereof unless upon the same ballot, words are printed or written so as to afford the same facility for voting upon said section as is afforded for voting upon the remainder of the constitution." I care nothing for the form of the ballot; the substance is what we are after; and if there are hundreds of voters in this territory who are unwilling to vote either for or against this question, we want them to have an opportunity to vote either for or against the constitution, and that their votes shall not be annulled and made void; it is no more than fair; it is no more than just; it is no more than right! I do not know what the Illinois plan is, but if it is as foreshadowed by this report I do not believe in that kind of a provision. I do not believe it is policy for this convention to put in this kind of a provision and then vote it out. I think the proposition should be separately submitted, adopted separately by this convention, and then put separately before the people for ratification. If it is ratified it becomes a part of the constitution the same as the rest. If it fails of ratification it becomes no part of the constitution. But if you put a clause into the body of the constitution those who read it will see that it is there; the time is limited in which to submit this constitution, to a very few days, and you will find that hundreds if not thousands of voters will take it for granted that that is embodied in the constitution, and those who are opposed to prohibition will vote against the whole measure because it is found there; it is printed there; they see it and you have no time or opportunity to explain to them individually that notwithstanding it is found in the body of the constitution as submitted to the people nevertheless there is another provision by which upon certain conditions that article is to be taken out and eliminated from the constitution. We do not want to run any such risks. If it was possible to disseminate information all over this territory, as a three or six months canvass would give us opportunity to, we might reach the mind of every voter; but we must remember that these men who do the voting are pursuing their own avocations; they are engaged in the haunts of industry, hard at work for the purpose of supporting their wives and their little ones, making for themselves a home for the future in this land; they have not the time to read or to think or consider these propositions as you have and as I have. There is no use disguising the fact that in this territory of ours, however much we may deplore it and however much we may believe that their minds are warped, by their early education, by their surroundings, it is impossible for us to shut our eyes to the fact I have stated, that there are thousands of people in this country as well as elsewhere who as honestly and firmly believe that when you undertake to limit their personal rights in this regard, as they term them, you are interfering with those personal rights contrary to all the laws which society has a right to clothe itself with, as our fathers in the days of the Revolution believed that they were suffering injustice at the hands of the British king.

I say that this kind of enjoyment is altogether wrong. I believe in the power of the majority to control anything which tends to evil. It is evidenced in the history of the world beyond a question that the traffic of intoxicating liquors leads to the direst evils! If I were able, I would eliminate it from the nation. Nevertheless, though we may believe in that, Mr. President, I repeat there are thousands and tens of thousands of people in this Territory who do not agree with us. They believe in their supposed right to eat drink and be merry, and that they alone are responsible, to their Maker, and not to their fellow man.

I want, regardless of this question, I want the full vote of this Territory polled under this constitution. I want to see it ratified with practical unanimity. I want every man, those who favor this traffic, and those who claim it is not right, I want them all to feel that this matter has been fairly presented, and whatever the result, we will leave to the future.

Now, Mr. President, I am opposed to the adoption of this report as a whole. I am in favor of the recommendation that this subject be separately submitted.

Therefore, Mr. President, I move you, that that portion of the report that recommends a submission of its separate proposition be voted upon, and I call for a division on that point.

Mr. Fowler: I have heard 14 persons call for a division on this question.

Mr. Owen: I second the demand of the gentleman from Lawrence for a division on this question.

Mr Moody: The propositions here contained in this report are so interwoven that perhaps to avoid any trouble about the question, I should be compelled to ask in the first instance that the proposition be amended in form; but I desire to take the sense of the convention first upon a single proposition. And that is this proposition be submitted as a separate article in the constitution in the language provided here, and the proposition is as follows:

"No person or corporation shall manufacture, or aid in the manufacture for sale, any intoxicating liquor; no person shall sell or keep for sale any intoxicating liquor as a beverage. The Legislature shall by law provide regulations for the enforcement of the provisions of this section and provide suitable and adequate penalties for the violation thereof."

The motion was adopted.

Delegate: I now move that we refer the balance of their report to the Committee on Schedule.

Mr. Brookings: I move a motion at the request of the clerks who have been working very hard, I move that we do now adjourn until tomorrow, as we have made considerable advancement; then we can put in a big day's work.

Mr. Moody: I am opposed to the motion of the gentleman. Most of us from a distance are not disposed to adjourn, as we can put in a couple of hour's work yet this afternoon.

The motion is lost.

Delegate: I understand that the clerks are perfectly satisfied.

Mr. Owen: I move that we do now go into the Committee of the Whole for the further consideration of the report of the Bill of Rights Committee.

By the President: The motion before the House is that the Convention do now resolve itself into Committee for the further consideration of the Bill of Rights.

(Carried.)

Committee of the Whole House.

Mr. Cranmer in the Chair.

By the Chairman: I think we are to take up section 13.

Mr. Brookings: I have no objection to it, but it seems that this first clause should have been made a little more definite, that it should have provided that all property taken for public use, or damaged, shall receive just compensation which shall be fixed by a jury and paid before possession is taken.

By the Chair: I would like to state that the Secretary informs me that an amendment was pending at the time the matter was left.

The Secretary reads the amendment to line 70.

Private property shall not be taken for public use or damaged without just compensation, before possession is taken, provided the money demanded by the owner of the property shall be deposited as soon as the jury is drawn.

A Member: I move to lay the amendment on the table.

Mr. Fowler: I rise to a point of order, the Committee of the Whole have no table to lay it upon.

By the Chair: The objection is well taken, and I see no other way than that we vote upon the amendment as read by the Secretary.

Mr. Owen: I wish to offer an amendment, it is this—to insert the words "before possession is taken," and the following words, "providing the amount of money demanded by the owner of the property shall be deposited before the jury is drawn," that is the amendment I offered.

The amendment to the amendment is voted upon and declared lost. Question is raised and a standing vote taken which results in 39 for and 32 against, and the amendment prevailed.

Mr. Haines: I move to reconsider this question, and perhaps I can make myself better understood by reading from Section 9 of the Pennsylvania Constitution. (Reading) The term "injury" as used here covers about the ground or the words in our proposition of Section 13, but it will be observed that the compensation for such damage shall be paid as fully or in like manner as in cases where the injury—

Mr. Owen: Let us stick to this.

Mr. Haines: I would like to make an illustration—if a street is graded or a railway laid in the vicinity of private property damage is sustained but possession is not taken. Under this provision as it now stands, railways might be laid upon streets, and damage might accrue and no disposition for the payment of money for damages would be required.

The motion is lost.

Mr. Owen: I move that we proceed to the consideration of the next sentence down to the words "taken or damaged."

By the Chair: If there is no objection we will proceed to consider it.

Mr. Owen: I move to amend the clause by striking out in the 71st line, the words—"in common with the owners of adjacent property" and after the word "improvement" insert "made by any private corporation," so that the sentence will read—"any benefit which may accrue to the owner as the result of the improvement made by any private corporation."

Voted upon and lost.

Mr. Owen: I do not agree with the gentleman from Lawrence and others; that in case of a private corporation the rule should be as established by the Code of Dakota. That if a man is incidentally benefitted by the improvements to his property, that should not be taken into account in the amount of damages to be paid for the land. That is the point, the rule is otherwise. When a street has been opened the property through which the street runs has been largely benefitted. It is the rule and the reasonable, just rule everywhere recognized.

The gentleman from Hughes county gave an illustration of some property in Pierre. I am quite familiar with the matter in the city of Chicago; there lots are assessed from one dollar a lot to a thousand dollars, reaching out each side sometimes a mile.

We are not preparing a Bill of Rights here for farmers; we are preparing a Bill of Rights for the people of Dakota. Cities, towns, villages, railroads, municipal corporations, farmers and everybody.

I don't know whether this can be improved or not. It reads as well as the committee can make it and carry out the object intended to be protected thereby.

Mr. Corson: We have spent now two days upon this section; it seems to me we are no nearer an arrival to a conclusion than when we commenced.

I move you, Sir, that we go back to the first principles and strike out all this section after the first, "without just compensation" leaving the clause then to read—"private property shall not be taken for public use or damaged without just compensation." That embraces everything. We have got to that point when we fail to understand what the gentleman has in his provision. We do not know anything about it. I have never known of a case where it was not ultimately determined by a jury, in contested cases; to say Sir, that we must have a jury, before property can be taken let us see how it will work—

Mr. Owen: I am compelled to call the gentleman to order; the first clause has been adopted; the motion to reconsider made, and the motion lost.

Mr. Corson: Down to what point?

Mr. Owen: "Benefit which may accrue."

Mr. Corson: I move to strike out the balance of the section recommended by Mr. Owen. I submit there is nothing in this even yet.

Here are cases of municipal corporations that have been shown here on this floor; where they were building streets through a block of ground; well who will be the greatest benefitted by the improvement? The property might not be of ANY value until the street was put through; the city may be willing to put the street through but are unwilling to pay a large sum of money as a permission to go through that ground.

This it seems to me is legislating and should be left to the legislature; I don't see any particular justice in the section.

If I am benefitted by an improvement, there is no reason why the party benefitting me should pay me a large sum of money to confer the benefit upon me; it seems to me that the section should not stand but be stricken out; I move this as an amendment.

Mr. Miller: Incidentally a day or two ago I talked about this section and made the remark that I looked at it from a farmer's standpoint; and in speaking further about it I did not intend to impute any wrong motive to these legal gentlemen here, who have spent their time and left their business to come down here and mingle with us in the effort to draft a Constitution for this state; which shall mete out to every one in the state equal and exact justice. I believe they are just as honest, and just as sincere as I am or any one else in this territory; I thank them and I believe the people of this Territory will thank them for leaving their business and coming here to help in this matter.

But again I desire to say that as a farmer, and looking at this from a farmer's standpoint, I believe this section should stand just as it is.

I would like to know, with a railroad running through this Territory, who is going to be the most interfered with; whose land is it going to cut up; the farmer's land.

I know one of my friends stated to you that he was something of a farmer himself and looked at this somewhat from a farmer's standpoint. I have no doubt but behind his desk, in a wholesale grocery store, perhaps from his law office he can look out in imagination to his little black shack, and look at this from a farmer's standpoint. I tell you that is a very different thing to going out on a farm and setting out trees, placing your buildings, your house and barns, and here comes a railroad along, and the first thing you know the line is surveyed right between your house and your barn; of course you have no other redress. I think these corporations should be required to provide for these payments in conformity to the section just as reported by the Committee to the Convention the first time.

Mr. Fowler: As a farmer, one of the honest yeomanry, I demand to be heard. Now it may be that I am not capable of performing so much manual labor as the gentleman who has preceded me. Notwithstanding, I am a farmer. I am this year producing more grain and performing more labor in agricultural pursuits than the gentleman who preceeded me. Moreover I anticipate that within the next year the North-Western railroad will penetrate the center of my farm, and I have not got any townsite for sale either. Now looking at this from a farmer's standpoint, Mr. Chairman, I want a railroad out into our country beyond the Missouri river and we want this Constitution framed so we will not be prohibited from having a railroad. I have traveled for the last five years 250 to 300 miles to get to the end of a track, to come down here to meet you gentlemen of the Territory. Now if you gentlemen are making a Constitution for the whole Territory, I ask in the name of conscience, gentlemen, that you shall not incorporate therein a plank that will deprive us of public improvements.

Mr. Conniff: I might say that I too am a farmer, and I might say that I am a lawyer, but more than all else, I am a member of this Constitutional Convention, and I propose as a member of this Constitutional Convention to do the thing that to me seems equal and exact justice to all men and to all corporations as well. I know from what I have seen that railroads traversing the country—and I don't understand that this effects other corporations, such as municipal corporations—do cut and damage farms. They cut through one farm and the next is not cut or injured; the latter has the same benefits; benefits perhaps to a greater extent than the farm that is cut. It may be that they cut right through the man's barn or his orchard; the jury will say: "O, this was an advantage to the whole country, we will give him a dollar." Our friend here from Lincoln county was on a commission of that very kind—though I am glad to say he was in the minority. The same provision, almost indentically the same, was in the constitution of Iowa. My friend from Pennington suggests that he wants a railroad; did the constitution of Iowa prevent the railroads from going through Iowa? Why it is the truth that Iowa had railroads even in advance of her population. I think the objections are not well taken.

Mr. Jessup: As a representative of the fraternity that handles the plow handles, I live in one of the western counties that has never had a railroad;and it is one of their fondest hopes that we will get one but I do not believe that my constituents are so anxious for one that they will sacrifice principles of right and justice and equality. The gentleman that preceeded me stated that question fairly. If a railroad goes through a country and cuts my farm and his farm and some one else's farm they ought to pay the damage. Simply because a man lives on a quarter outside of the range of the railroad is no reason that he is not benefitted by it. He is benefitted just as much as I am. It seems to me very important that you put that provision in. I have looked the matter up a little, and I find that in the old constitution of Iowa that provision was omitted, and the Legislature had to cover it, but when they met to form the new constitution they immediately went to work and put this provision in the new constitution. It seems to me that the justice and equality is so evident in this matter that it needs no further controversy.

By the Chair: The question before us is the motion as offered by Mr. Owen, that in line 71 we strike out the words "in common with the owners of adjacent property" and after the word "improvement " in line 72 insert the words "made by any private corporation."

(The Chair was undecided as to the result of the vote—) Rising vote demanded and taken. The motion prevailed.

Mr. Owen; I would like to hear the section read as amended.

(Read by Secretary.)

Mr. Brookings: What became of the substitute that was offered?

By the Chair: It was not seconded.

A Member: I second the substitute for the sake of disposing of the matter.

(The motion was lost. The section as amended was adopted.)

Section 15.

Mr. Jessup: I move to strike out all the remainder of the section from the word "arising" so that the section shall read "no person shall be imprisoned for debt."

Mr. Owen: If that is the desire of the Convention I have nothing to say, but if a man converts my property to his own use takes the horse or horses I have loaned him and carries them off and sells them, why, is a man like that to go unpunished?

Mr. Haines: I am opposed to that section as it stands. Now that abolishes all compulsory proceedings subsequent to execution provided for in our code.

There is no punishment for contempt in disobeying the order of the court before which a defendant has been cited supplemental to execution which could be enforced.

(Reading an amendment which was filed with Secretary.)

Will the gentlemen reflect upon the sweeping operations of this section? I therefore move the adoption of the lauguage which I have read.

The motion is seconded.

Mr. Campbell: Do I understand the gentleman to say—

Mr. Haines: It is for disobedience to the order of the court.

Mr. Campbell: I favor the provision as it stands.

Mr. Brookings: Is the amendment before the House?

The Chair: The question before the House is the amendment to the amendment. (Lost.)

By the Chair: The question before the House is upon the amendment to strike out all the words after the word "debt."

The motion is lost.

The Chair: The question now is upon the section as it stands, whether it shall be adopted.

The section is adopted.

Section 16 is read and adopted by the Committee.

Section 17 is passed.

Section 18 is adopted by the Committee.

Section 19 is read.

Mr. McCallum: I move to amend by adding after the word "separate," "of all citizens."

Mr. Owen: Do you want to put Woman Suffrage in there? I do, but not in here.

Section 20 is read and passed by the Committee.

Section 21 same.

Section 22 is read.

Mr. McCallum: I would move to amend by inserting the word "nor" in place of the word "or" after "excessive punishment."

Mr. Owen: That is only a question of grammar.

Section 24 is read and adopted.

Section 25 is passed.

Section 26 is adopted.

Section 27 the same.

Mr. Owen: There is a second report of the Committee.

Mr. Campbell: I would move that the following be—

Mr. Owen: It is merely a matter of order. We have a second report to make.

Mr. Campbell: All right.

The second report is read by the secretary.

Mr. Owen: This last section is taken from the constitution of the state of Tennessee.

Mr. Campbell: It seems to me under this scheme that a man might claim every day in the year.

Mr. Neill: I move to insert one day in the week.

Mr. Blair: I did not apprehend that it was necessary to defend the right of the people to worship God according to the dictates of their conscience. That is something guaranteed. The right of the people to observe a particular day of the week as a day of rest is guaranteed by the Constitutions of a majority of the states. I do not think that it is a matter that requires any argument or defense. It is a right which is guaranteed to all people.

Mr. Campbell: Let us hear that read.

The section is read by the Secretary.

Mr. Campbell: Does that apply to all officers? It strikes me that we have nothing that particularly recognizes. I do not know what the state of Tennessee recognizes, but if that provision is contained there, it does not appear in any other but that state. I move to lay this on the table.

Mr. Owen: I would move that the further consideration of this be postponed.

The Chair: Do you move that as an amendment?

Mr. Owen: I do.

Mr. Campbell: I raise a point of order.

Mr. Brookings: O, nonsense!

Mr. Cambell: There is a motion to lay on the table.

The Chair: I have decided that a motion to lay on the table is out of order in Committee of the Whole.

Mr. Campbell: I move the following as an additional section, taken from the Pennsylvania Constitution of 1870:

> All political power is inherent in the people, and all free government is founded on their authority, and is instituted for their equal protection and benefit, and they have the right at all times to alter, reform or abolish their form of government in such manner as they may think proper."

From the revolutionary time until now, most of the states have embodied this principle in the declaration of independence in their constitution, and I think it is right.

Mr. Neill: I don't like that word abolish, I protest against a revolutionary scheme to abolish any form of government.

Mr. Campbell: I introduce it because I thing it peculiarly adapted to the present state of affairs in regard to Dakota.

Mr. Edgerton: I don't know that I should say a word on this occasion, but it has been intimated by the mover that the propriety and necessity for this declaration rests upon the peculiar relations that we this day occupy; in other words, while Dakota, is a territory and knocking at the doors of the general government for admission, we declare to that government that we have the right to abolish that form of government, and I protest against the declaration, it is not my declaration.

I desire in this event that we should present to Congress a Constitution which will receive the approbation of Congress, to appeal to them; not that we declare that we have an absolute right to establish a different form of government; and I think with such sentiments expressed we will fail to accomplish what we desire.

We should appeal to Congress and show Congress that we have conformed to all that they have required at our hands, that we have sufficient population, sufficient territory, that we have intelligence, that we are law-abiding citizens and that they shall emancipate us from a territorial form of government; but that we do not come before them as rebels with the statement that we have the absolute right to abolish our territorial form of government.

Mr. Campbell: There was a time, Mr. President, when such sentiments as were just now presented to us from the lips of our President, were considered loyal, and the opposition doctrine was considered rebellion. There was a time when it was thought to be revolutionary to say that the power of the government rested upon the authority of the people, but Sir, from the time that Patrick Henry made his speech for Virginia, from the time the Constitution was adopted by this people, and from the time the Declaration of Independence was formed, in which our fore-fathers did not hesitate to say, in the face of the government they antagonized, that the government was based upon the authority of the people, from that time to this I have never heard that doctrine disputed, and I hope the time will never come when the people of Dakota will have less spirit than did their fathers.

On this subject, what did the people of other states say? There are many men here whose beards are getting grey, who were boys in 1860, who remember that when the Democratic Congress, to whom some men would have us bow as before demi-gods, to whom they would have us bend the knee and bow the head as if they were Czars and satraps, as if we were not people of the American Government!

What did that Democratic Congress say to the people of Kansas? It said: "You have no power to act until we grant that power". And what did it do? It turned out their Legislature and forced down their throats the Le Compton Constitution. At the end of that administration, that party went out of power and did not return for twenty-four years. And what did the people of Kansas do? They hurled back to Congress this very declaration now proposed here!—and you will find it embodied in almost every Constitution that has ever been adopted.

If such a proposition be treason, I pray God I may always be a traitor!

Mr. Edgerton: I stated at the outset, that so far as the proposition made is concerned, as an independent declaration, I have no objection to it. But when you say it is on account of any peculiar position which we occupy, I reply that these words are unnecessary, and I do not think that it will conduce to our best interests.

Mr. McCallum: I admire the sentiment of our distinguished President, but I am here as a delegate from the people. I respect the laws of the American Congress, but if we have to go into the Union on our knees, let us stay out. I say that the voice of 400,000 American citizens is entitled to be heard in this government. And if there is anything revolutionary in the resolutions offered by the gentleman from Yankton, excepting as to the words 'abolish the form of government,' I fail to see it. Nor do I feel that by being a citizen of Dakota that I am any the less loyal. I respect the conservative sentiments of our president of this convention and I think his motive is a good one; he seeks to avoid any inflammatory sentiments in the constitution, at the same time I would like to know what authority under the sun Congress has to say that Dakota shall not be admitted. It is time for the people of Dakota to rise and if necessary throw off their political thralldom and say by all the principles of eternal right and justice we will no longer be slaves. In doing that would we in any sense be going before Congress with an inflammatory document? It certainly cannot be by any party or by any section declared to be revolutionary in its nature.

Mr. Ward of Yankton: As a matter of logic, if we are willing to say that the right of government rests upon the consent of the governed, we have got to take the rest that follows it; we, the people of Dakota, acknowledging that the laws of the United

States is the supreme law of the land, our loyalty can not be questioned.

Disloyalists usually fight to get out; we are fighting to get in; ours is a situation which is reversed; and if anybody must be charged with disloyal sentiment to the Constitution of the United States it is those who by any method, direct or indirect, would keep us from entering the Union.

And, as has been expressed, the self-respect of 260,000 freemen is worth keeping. Why can not we go there and stand just as good a show before our brothers and keep our self-respect, as to go there and in any sense take the part of a suppliant? A great deal is to be gained by taking a good deal for granted, especially when the things we take for granted are ours. Congress is no more of an august body or respectable body than this one; and it is as great an honor to stand here and claim our rights and assert them as it would be to stand in that House and give them to us. I think it is worth something to keep our integrity even if it costs us ten years of waiting as a Territory.

Mr. Moody: I do not intend to make any speech! Do not get alarmed, anybody! There seems to me to be a misunderstanding about this; we are preparing a Constitution for a state, not a territory! It don't take effect until we become a state. When it becomes a state is not the proposition a declared truth that can not be gainsaid by any one on earth? I see all the other Constitutions in the Union contain the same declaration. What is it? A sort of Fourth of July declaration; it is simply to hand down to our children, and our children's children. Now with the kindest of feeling for every member of this Convention, and of course, unusually so for the presiding officer of this Convention, I would hate to see this declaration of the inherent power of the people voted down by this Convention. There is not anything revolutionary in it. I would hate to see this Convention say by a negative vote, that it is not the truth, because we all feel that it is the truth. We do not declare by our action that we endorse what every member says. If Judge Campbell has got up to a fighting pitch, I am glad of it. I would like to see it. I would like to see every man in the Territory to a fighting pitch so he would be ready to shoulder arms to GET IN. We would not be likely to accomplish much, but I would like to see them in that frame of mind.

We have the right, and if we do not claim it we ought to go home at once.

We have the absolute right granted to us by the Constitution, a right which has not only been granted to us by the Constitution of the United States, but we have the pledged faith of Congress that if we will come here and settle these public lands and organize communities, just as soon as we have a sufficient population and resources to form a state government it will admit us into the Union. This is a legal right; it is a constitutional right. We can not enforse it, but we can declare in our Constitution that we propose to take effect when Congress shall say, "you are admitted into the Union of States". We can declare these principles and that is all. I don't think any sort of feeling ought to grow out of this. Our friend here, Judge Campbell, is combative; the very cut of his countenance and figure shows it! I have known him five or six years; I have met him at the bar; I have had him before me when I was presiding in court; he is always combative when anybody comes at him. (Laughter.) He has the kindest of intentions; he merely states with much more emphasis than we can state, just what our beliefs are.

Mr. Owens: I do not arise to address the Convention at all! I move that the proposition be referred to a committee,—

(Cries of No! No!)

The section as read was adopted by a standing vote of forty-six for to seventeen against.

Mr. Britton sends to the Secretary's table a section concerning the enumeration of rights. (On file.) Which was in due form adopted.

Mr. Miller: I move that we report back to the Convention with the recommendation that the report be adopted.

Which motion prevailed.

Mr. Miller: I move the Committee do now rise.

Which motion prevailed.

Convention

Mr. Kellam called to the chair of the Convention.

Mr. Cranmer, as chairman of the Committee of the Whole reported that the Committee of the Whole had had under consideration the report of the Committee on Bill of Rights, and begged leave to refer same back to the Convention with sundry amendments with the recommendation that the same be adopted.

Mr. Edgerton: I ask for a division of the question, and that that proposition be put under separate questions.

By the Acting President: The question before the House is upon the adoption of the report and the recommendation of the Committee of the Whole, excepting the resolution of Judge Campbell; that is separating the two questions.

Mr. Campbell: That is, that the vote now will be upon all but the resolution?

By the Acting President: Except the resolution of the gentleman from Yankton.

The motion is adopted.

Mr. Campbell: Now, I move the adoption of the additional provision which was not included in this last vote.

Mr. Edgerton: I hope the Convention will take until tomorrow to consider that. It seems to me that it is of vital importance.

Mr. Moody I move an adjournment until tomorrow.

Mr. Edgerton: I am willing to submit it now. I shall not take over five minutes. I have no choice myself I had as leave say what few words I have to say now as later.

Mr. Moody: I withdraw my motion to adjourn.

Delegate: I move that we do now adjourn.

Seconded.

The motion was put to the House, division called for, and there being a tie, 36 for and 36 against, the Chair cast the deciding vote in favor of the motion, and the Convention stood adjourned.

TWELFTH DAY.

September 19th, 1885.

The Convention was called to order by the President at 9:15 A. M., and opened with prayer by the Rev. Mr. Gardner, of Sioux Falls.

PRAYER.

O, Lord, Heavenly Father, Sanctifier of the Universe, visit this assembly with Thy love and favor; give unto their minds wisdom and all Thy gifts of grace, that their deliberations may be founded upon justice and right and equity and truth. Grant unto those who shall today speak for this assembly a power of wisdom and understanding. Grant unto us in all our deliberations the spiritual insight which shall make us found our Constitution on rights unto all men and as thou hast founded Thy church—on the principle that there is neither bond nor free. As Thy great kingdom in Heaven is founded on this principle, so may our earthly government be so founded; for, unless so founded, it cannot stand. May there be no distinction of race or color, but in all things shall every man be equal before the law as he is equal before Thee, Our Heavenly Father. Send down upon all Thy people today the blessings of peace, prosperity, and charity. Finally, grant unto us in this Territory the final outcome of all our deliberations, our position and our rights as a state within Thy great commonwealth of this country; all of which we ask in Thy Son's name; who has taught us to pray; Our father who art in Heaven, hallowed be thy name; Thy kingdom come, Thy will be done on earth as it is in Heaven; give us this day ourdaily bread and forgive us our trespasses as we forgive those who trespass against us; and lead us not into temptation, but deliverus from evil, for Thine is the kingdom and the power and the glory, for ever, and ever, AMEN.

Reading of the Journal of yesterday.

The President called Mr. Kellam, of Brule, to the chair.

Unfinished businees of the previous day.

By the Chair: The question now before the convention, under the order of unfinished business of the previous day, is, the motion to adopt the unadopted part of the report of the Committee of the Whole, as made last evening, which is the adoption of the resolution offered by Judge Campbell and reported to the Convention by the Committee of the Whole with the recommendation that it be adopted.

Mr. Edgerton: I think the usual and ordinary method is that the Convention "Do not concur" and I make that motion. (Seconded) and upon that I have something to say, and in consideration of what took place yesterday I hope the Convention will grant me a little indulgence. I would like more than the ordinary time possibly, inasmuch as the side that I am here on is in the minority and in consideration of the eminent talent displayed upon the presentation of the other side of the question and I would ask the further indulgence of the Convention, that if answers are to be made, I shall be allowed a brief time to reply.

Mr. Neil, of Grant: I move that the request of the gentleman be granted.

By the Chair: If there is no objection, the gentleman's request will be granted.

Mr. Edgerton: I thank the Convention for their courtesy. It is with no pleasure that I rise this morning, but it is in the performance of what has become my solemn duty. I have no personal interests here at stake, I have a desire to do what I can, in my humble way, for the best interests of Dakota, the personal allusions that have been made, I shall not answer; the question is what ought we to do for the best interests of the commonwealth, how can we procure admission best? I admit at the outset that the resolution is technically correct, under certain circumstances. I do not deny, as a last resort, the right of any people to revolutionize; our fore-fathers declared for it. I do not deny that Dakota has a right to statehood; I do deny that it is opportune for us to incorporate that resolution at this time upon the law of this Territory, seeking as we do, admission into the Union, through Congress. I acknowledge still further that there are two antagonistic principles represented in this Convention. One is that we shall obtain admission into the Union through peaceable methods, and if not, that we shall wait; the other that we shall assert our right and maintain it at all hazards. I acknowledge as was said yesterday, that I am conservative; I admit it; and I will tell the members of this Convention that if we obtain admission into the Union of States during the next winter, it will be through conservatives and conservatism. It has been said at the outset and I take it for granted that these speeches (producing a morning paper) are reported reasonably correct. We are cited to the example of Patrick Henry. Well, now, it appears to me, if I understand the history of this country, that it was a very inopportune illustration upon the floors of this Convention. What was Patrick Henry's effort that the gentleman alludes to? It was, if I remember correctly now, without the aid of any documents, in the House of Burgesses, asking Virginia to rise in revolt against the government; and his declaration was, 'Every breeze from the north brings to our ears the sound of resounding arms'. That is the declaration. Now gentlemen, I for one, I have no idea of following on the floor of this Convention even the illustrious example of Patrick Henry. Others have. I do not want any resounding arms within the limits of this Territory, and still further on in that rhetorical climax that ended that declaration, I beleive, he said, "Give me liberty or give me death". I would like liberty, but I am not anxious for the other. No, Mr. President, so far as I am individually concerned, I would rather remain here a territory, for five or ten years, or personally for twenty years, than to take the other. Neither am I anxious for the other proposition, that this Territory shall follow the advice of Patrick Henry in rebelling against the government. If it was wise then, is it wise for Dakota today?

There is another proposition that the gentleman was singularly unfortunate in. If my memory serves me, Patrick Henry was an opponent of this Constitution of the United States and did all that he could to oppose the admission of Virginia into the United States through the Constitution of the United States. "We are largely fashioned and moulded by our environments" as Joseph Cook would say. Now, I acknowledge that I have lived in a grand state, a state that has ever been loyal to the Union and loyal to the govern ment, and from that state I have derived many of the principles that I now entertain. There are other gentlemen upon this floor who have lived on the light of government asserted by power of arms, but I for my part prefer Minnesota with its illustrious men who have controlled through its conservative ways, to the record of the Louisana Legislature.

I am informed here upon the floor of this Convention, in the first place, that nearly all the states have had this same provision in it, and I presume the members of this Convention remember that assertion yesterday from two distinguished gentlemen upon the floor of this Convention. Now if the gentlemen will indulge me I propose to go through the list of states,—those that are for and those that are against, and let us analyze them. First I call the attention of the Convention to Alabama. I may have ommitted some provisions but I have endeavored to give them accurately. Alabama's declaration on the subject is as follows: Charters and Constitutions of the United States, Page 60 "That all political power is inherent in the people, and all free governments are founded upon their authority, and are instituted for their benefit and that, therefore, they have at all times, an inherent right to change their form of government, in such manner as they may deem expedient.

Mr. President: Is that our declaration?

I find still further on in this bill of rights (page 62 as qualifying (this is the state of Alabama) "That this state has no right to sever its relations to the Federal Union, or to pass any law in derogation of the paramount allegiance of the citizens of this state to the government of the United States." Is that our declaration? That comes from Alabama, I will read it again for it has some significance here, inasmuch as we are told here that we should follow this on account of the outrages of the Democratic party in Kansas and Alabama is not a very strongly Democratic state. "That all political power is inherent in the people, and all free governments are founded upon their authority, and instituted for their benefit and that therefore, they have at all times, an inherent right to change their form of government in such manner as they may deem expedient.' "Not alter nor abolish." Following in the same article and as a part of the bill of rights "That this state has no right to sever its relations to the Federal Union, or to pass any law in derogation of the paramount allegiance of the citizens of the state to the government of the United States."

The next state is Arkansas. Arkansas says upon this (page 134) "All political power is inherent in the people. Government is instituted for the protection, security and benefit of the people, and they have the right to alter and reform the same whenever the public good may require it, but the paramount allegiance of every citizen is due to the Federal Government in the exercise of all its constitutional powers as the same may have been or may be defined by the Supreme Court of the United States; and no power exists in the people of this or any other state of the Federal Union to dissolve their connection therewith or perform any act tending to impair, subvert or resist the supreme authority of the United States. The Constitution of the United States confers full power upon the Federal Government to maintain and perpetuate its existence, and whensoever any portion of the states, or the people thereof, attempt to secede from the Federal Union, or forcibly resist the execution of its laws, the Federal Government may, by warrant of the Constitution, employ armed force in compelling obedience to its authority." That is from Arkansas.

I will try not to omit a single one, for I admit there are a few that sustain the other view of this question; but I do affirm this, that there is no constitution of the United States that has been adopted since the war that has adopted that proposition unless it had been previously adopted in the constitution before the war and transmitted to the new one.

California. (page 195) "All political power is inherent to the people. Government is instituted for the protection, security and benefit of the people; and they have the right to alter or reform the same whenever the public good may require it." That is not quite so patriotic as this constitution is proposed to be.

Colorado. (page 220): "That the poeple of this state have the sole and exclusive right of governing themselves as a free, soverign, and independent state, and to alter and abolish their constitution and form of government whenever they may deem it necessary to their safety and happiness, provided such change be not repugnant to the Constitution of the United States." Almost like ours, but not quite so far as we go. I ask your attention again to the concluding clause of this paragraph; "Provided such change be not repugnant to the Constitution of the United States."

Connecticut. Constitution of 1818 (page 258): "That all political power is inherent in the people, and all free governments are founded upon their authority, and instituted for their benefit; and that they have at all times an undeniable and indefeasable right to alter their form of government in such manner as they may think expedient."

Delaware. (page 289): "Through divine goodness all men have by nature, the rights of worshipping and serving their Creator according to the dictates of their consciences; of enjoying and defending life and liberty, of acquiring and protecting reputation and property, and, in general, of attaining objects suitable to their conditions, without injury by one to another; and as these rights are essential to their welfare, for the due exercise thereof, power is inherent in them; and therefore all just authority in the institutions of political society is derived from the people, and established with their consent, to advance their happiness, and they may for this end, as the circumstances require, from time to time, alter their constitution or government."

Florida (page 347): "All political power is inherent in the people. Government is instituted for the protection, security, and benefit of its citizens, and they have the right to alter or amend the same whenever the public good may require it; but the paramount allegiance of every citizen is due to the Federal Government, and no power exists with the people of this state to dissolve its connection therewith."

Declaring a principle not so broad as ours by far, and yet concluding it with this declaration: "But the paramount allegiance of every citizen is due to the Federal Government and no power exists with the people of this state to dissolve its connection therewith."

Georgia (Page 413): "The state of Georgia shall ever remain a member of the American Union; the people thereof are a part of the American Nation; every citizen thereof owes paramount allegiance to the Constitution and Government of the United States, and no law or ordinance of this state, in contravention or subversion thereof, shall ever have any binding force."

Illinois: In my hasty examination I have been unable to find any declaration in relation to this proposition. Perhaps I have omitted it, if there is anything, these gentlemen will please call my attention to it.

Indiana (page 512): "We declare that all men are created equal; that they are endowed by their Creator with certain inaleinable rights; that among these are life, liberty, and the pursuit of happiness; that all powers are inherent in the people; and that all free governments are and of right ought to be founded on their authority, and instituted for their peace, safety, and well being. For the advancement of these ends, the people have at all times an indefeasible right to alter and reform their government".—a studied omission all the way through, so far, of the word "Abolish."

Iowa (page 552): "All political power is inherent in the people. Government is instituted for the protection, security, and benefit of the people, and they have the right, at all times, to alter and reform the same, whenever the public good may require it."

Kansas was particularly alluded to, and its history. "All political power is inherent in the people, and all free governments are founded on their authority, and are instituted for their equal protection and benefit. No special privilege immunities shall ever be granted by the legislature which may not be altered, revoked, or repealed by the same body; and this power shall be exercised by no other tribunal or agency." I do not remember any clause there that directly touches upon this question.

Kentucky is the first state I shall read from that takes the open position advocated by the other side; and in that I will read the two sections and the bill of rights together and probably they ought to go together, inasmuch as this constitution was adopted in 1850 and stands as it was adopted in 1850, as the declaration of the people at that time.

"That all freemen, when they form a social compact, are equal, and that no man or set of men are entitled to exclusive separate public emoluments or privileges from the community, but in consideration of public services."

The first section makes it the constitution of freemen, and follows it by Sec. 4; that is the principle declared in this Convention yesterday. "That all power is inherent in the people, and all free governments are founded upon their authority and instituted for their peace, safety, happiness, security, and the protection of property. For the advancement of these ends, they have at all times an unalienable and indefeasible right to alter, reform, or abolish their government, in such manner as they may think proper."

There is a significant fact here; this state of Kentucky was the western province of Virginia; it drew its laws largely frow Virginia; it went ahead of Virginia in passing the celebrated laws of

Kentucky; in declaring the right of a state to set up an independent form of government. Kentucky announced the resolution—drawn, if I remember right, by Madison—in which she declared the superior soverignty of the state; and I apprehend that this resolution is the outgrowth of the resolution of 1798, called the "Celebrated Kentucky Resolution."

Louisana: "All persons, without regard to race, color, or previous condition, born or naturalized in the United States, and subject to the jurisdiction thereof, and residents of this state for one year, are citizens of this state. The citizens of this state owe allegiance to the United States; and this allegiance is paramount to that which they owe to the state. They shall enjoy the same civil, political, and public rights and privileges, and be subject to the same pains and penalties." That is the only declaration, so far as I have been able to find, upon this principle, or upon the declaration with regard to what they owe the United States.

Maine has a peculiar resolution or article on this question, and there are gentlemen on this floor who are more familiar with the history of the "Maine Resolution", if I may so call it, Judge Brookings?

By Mr. Brookings: What is it, Mr. President?

Mr. Edgerton: Well, of the action of Maine at the time she adopted this resolution: "All power is inherent in the people all free governments are founded on their authority, and instituted for their benefit; they have, therefore, an unalienable and indefeasable right to institute government, and to alter, reform, or totally change the same, when their safety and happiness require it." I think that is a little in advance of ours. I do not remember the wording of ours. Perhaps "Institute" had better be added to ours, as Maine at that time was somewhat in the condition that Dakota is today. Massachusetts was not disposed to recognize that right. This was the declaraiton that she had a right to institute government there.

Maryland (page 888): "That all government of right originates from the people, is founded in compact only and instituted solely for the good of the whole; and they have, at all times, the inalienable right to alter, reform, or abolish their form of goverment in such a manner as they may deem expedient.

ARTICLE 2. The Constitution of the United States, and the laws made, or which shall be made, in pursuance thereof, and all treaties, or which shall be made, under the authority of the United States, are, and shall be, the supreme law of the state." Where Maryland declares the same proposition she annexes to it the declaration that the laws of Congress passed by Congress, shall be the supreme law of Maryland. "And the Judges of this state and all the people of this state are and shall be bound thereby, anything in the Constitution or law of this state to the contrary not withstanding." is the declaration of Maryland, following the declaration that we have made, but it is one that we have omitted.

Massachusetts, so far as I can find, has had no constitution since 1780. She had a constitutional convention during the war, I believe, but the people did not ratify it. Perhaps other gentlemen may have given the matter more attention than I have, but I can find no declaration.

In my hurry I have been unable to find the declaration of Michigan. She may have one, but I have been unable to find it.

Minnesota (page 1029): "Government is instituted for the security, benefit, and protection of the people, in whom all political power is inherent, together with the right to alter, modify, or reform such government whenever the public good may require it."

Mississippi (pages 1081—1082): "The right of the people peaceably to assemble and petition the government on any subject shall never be impaired."

Possibly there may be others, but I have not found them.

"The right to withdraw from the Federal Union on account of any real or supposed grievance shall never be assumed by this state, nor shall any law be passed in derogation of the paramount allegiance of the citizens of this state, to the government of the United States."

Missouri (page 1165): In order to assert our rights, acknowledge our duties, and proclaim the principles on which our government is founded, we declare—

That all political power is vested in and derived from the people; that all government of right originates from the people; is founded upon their will only, and is instituted solely for the good of the whole.

That the people of this state have the inherent, sole, and exclusive right to regulate the internal government and police thereof and to alter and abolish."

I want to call the attention of the Convention to the word "abolish"—to the peculiar wording here, because in our efforts for admission we must expect that every representative from Missouri will have the right, and perhaps consider it his duty to compare our organic law with his own.

"That the people of this state have the inherent, sole, and exclusive right to regulate the internal government and police thereof, and to alter and abolish their constitution and the form of government when ever they may deem it necessary to their safety and happiness; provided, such change be not repugnant to the Constitution of the United States."

Nebraska (page 1214): All persons are by nature free and independent, and have certain inherent and inalienable rights; among these are life, liberty, and the pursuit of happiness. To secure these rights, and the protection of property, governments are instituted among people, deriving their just power from the consent of the governed."

Nevada (1247):

I call attention to Neveda because it is one of the last states admitted to the Union.

"All men are by nature free and equal, and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing, and protecting property, and pursuing and obtaining safety and happiness.

"All political power is inherent in the people. Government is instituted for the protection, security, and benefit of the people; and they have the right to alter or reform the same whenever the public good may require it. But the paramount allegiance of every citizen is due to the Federal Government, and the exercise of all its constitutional power as the same have been or may be defined by the Supreme Court of the United States; and no power exists in the people of this or any other state of the Federal Union to dissolve their connection therewith, or perform any act tending to impair, subvert, or resist the supreme authority of the government of the United States. The Constitution of the United States confers full power on the Federal Government to maintain and perpetuate its existence, and whensoever any portion of the states, or people thereof attempt to secede from the Federal Union, or forcibly resist the execution of its laws, the Federal Government may, by warrant of the Constitution, employ armed force in compelling obedience to its authority."

New Hampshire (page 1294): "All men are born equally free and independent. Therefore, all government, of right, originates from the people, is founded in consent, and instituted for the general good."

ARTICLE 7. The people of this state have the sole and exclusive right of governing themselves as a free, sovereign and independent state, and do, and forever hereafter shall exercise and enjoy every power, jurisdiction, and right pertaining thereto, which is not or may not hereafter, be by them expressly delegated to the United States of America, in Congress assembled."

New Jersey (page 1314): "Government is instituted for the protection, security, and benefit of the people, and they have the right at all times to alter or reform the same, whenever the public good may require it."

New York: So far as I have been able in my hasty examination, I have not found any declaration on this question. Perhaps I am wrong.

North Carolina (page 1436): "That the people of this state have the inherent, sole and exclusive right of regulating the internal government and police thereof, and of altering and abolishing their constitution and form of government whenever it may be necessary to their safety and happiness, but every such right should be exercised in pursuance of law, and consistently with the Constitution of the United States.

"This state shall ever remain a member of the American Union; that the people thereof are part of the American nation; that there is no right on the part of the state to secede, and that all attempts, from whatever source, or upon whatever pretext, to dissolve said Union, or to sever said nation ought to be resisted with the whole power of the state. That every citizen of this state owes paramount allegiance to the Constitution and government of the United States, and that no law or ordinance of the state or contravention or subversion thereof, can have any binding force."

Ohio (page 1465):

Ohio has a declaration in accord with the proposition of the gentlemen, clearly, but it was passed, as I stated before, in 1851, years before the war.

"All political power is inherent in the people. Government is instituted for their equal protection and benefit, and they have the right to alter, reform or abolish the same whenever they may deem it necessary; and no special privileges or immunities shall ever be granted that may not be altered, revoked, or repealed by the General Assembly."

Oregon: Oregon likewise has one on the same subject, and in almost the same words; that they have at all times authority to alter, reform, or abolish the government as they may think proper. This was adopted in 1857, before the war.

Pennsylvania; That has been cited here; in the first place I call your attention to the declaration in their early constitution. Their constitution was adopted in 1776 at the opening of the war of Independence; a declaration of the people of that great commonwealth of the right to revolt against the mother government, England. And that contains this declaration that was read to this Convention yesterday and preserved and ingrafted into the new Constitution as near as I am able to read without the assistance of another person, exactly, in HEC VERBA as it was originally adopted in the original constitution.

Rhode Island: I have been unable to find anything upon this point before this body, from the Constitution of this state.

South Carolina (page 1646):

I wish to read for information from South Carolina; it is not a very good state to draw propositions of such a declaration of rights from. Therefore it is not to be relied upon probably upon this question; but may give us a little information to read how South Carolina stands upon this proposition.

"All political power is vested in and derived from the people only; therefore they have a right at all times to modify their form of government in such manner as they may deem expedient, when the public good demands.

"Every citizen of this state owes paramount allegiance to the Constitution and government of the United States and no law or ordinance of this state in contravention or subversion can have any binding force.

"This state shall ever remain a member of the American Union, and all attempts from whatever source, or upon whatever pretext to dissolve the said Union, shall be resisted with the whole power of the state."

Tennessee (page 1695):

Tennessee has a declaration like the one of Pennsylvania that is to be found on page 1677, which was the constitution of 1834, now found in the new constitution, in exactly the same words that appear afterward on page 1695. This constitution of 1834, adopted this declaration, and it was preserved in the Constitution adopted in 1837.

Texas had a peculiar outlook. She was born in a revolution, seceded from Mexico, established her independence, asked for admission into the Federal Union and it was granted; and it is not strange that the history of such a people should have preserved certain declarations of this kind in their organic law. But Texas does not go as far as we do, if I remember correctly, to be sure, this is in the new Constitution, but the people preserved many of their declarations of right in their successive Constitutions. "Texas is a free and independent state, subject only to the Constitution of the United States; and the maintenance of our free institutions, and the perpetuity of the Union depends upon the preservation of the right of loyal self-government unimpaired to all the states.

"All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit. The faith of the people of Texas stands pledged to the preservation of a republican form of government and, subject to this limitation only, they have at all times the inalienable right to alter, reform, or abolish a government in such a manner as they may think expedient."

It contains exactly the same words, if I remember rightly, of this resolution, but coupled with another declaration of their allegiance to the Constitution of the United States.

Vermont (page 1876): That government is, or ought to be, instituted for the common benefit, protection, and security of the people, nation or community, and not for the particular emolument or advantage of any single man, family or set of men, who are a part only of that community; and that the community hath an indubitable, inalienable, and indefeasable right to reform or alter government in such manner as shall be by that community judged most conducive to the public weal."

That was their constitution when they were occupying a position very similar to Maine, and perhaps more revolutionary in its character.

Virginia (1953):

I wish to call the attention of the Convention to Virginia, on page 1920. The first expression of the people of Virginia is preserved in their Constitution, and it reads this way:

"That government is, or ought to be, instituted for the common benefit, protection, and security of the people, nation or community; of all the various modes and forms of government, that is best which is capable of producing the greatest degree of happiness and safety, and is most effectually secured against the danger of maladministration; and that, when any government shall be found inadequate or contrary to these purposes, the majority of the community, hath an indubitable, inalienable, and indefeasable right to reform, alter, or abolish it, in such manner as shall be judged most conducive to the public weal."

That was adopted in 1850. Afterwards, the Constitutional Convention of Virginia in 1870, after the war, adopted this language in lieu of the other:

"That this state shall ever remain a member of the United States of America, and that the people thereof are a part of the American nation, and that all attempts, from whatever, source, or upon whatever pretext, to dissolve said union, or to sever said nation are unauthorized and ought to be resisted with the whole power of the state."

I have read the experssion of the Virginia Constitutional Convention, passed before the war, and you will notice, if you carefully read, how very carefully they revised that declaration, and instead of leaving it in the form that it was before the war, they carefully declare another and last declaration of their bill or rights.

"That the Constitution of the United States, and the laws of Congress passed in pursuance thereof, constitute the supreme law of the land, to which paramount allegiance and obedience are due from every citizen, anything in the Constitution, ordinances, or laws of any state to the contrary notwithstanding."

That is the last declaration so far as I know, of the state of Virginia.

West Virginia (page 1994) "The provisions of the Constitution of the United States, and of this state are operative alike in a period of war as in a time of peace, and, any departure therefrom, or violation thereof, under the plea of necessity, or any other plea, is subversive of good government, and tends to anarchy and despotism."

I find no explicit declaration of that right. It may be that I have possibly omitted it.

The last is the State of Wisconsin (2028):

This was before the war.

"All men are born equally free and independent, and have certain inherent rights; among these are life, liberty, and the pursuit of happiness. To secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed."

"The right of the people peaceably to assemble to consult for the common good, and to petition the government, or any department thereof, shall never be abridged."

I have gone through all the constitutions, so far as I know. I have read to the Convention, so far as I have been able to find, every declaration in the organic law, as it now stands, of the states of the Union. I maintain that there is no state since the war that has determined this question of States Rights. There is no Constitutional Convention since the war that has declared the doctrine that was propounded here yesterday, unless it had been previoulsy declared in the Constitution of that state, and preserved in exactly the same form, and in the same words in the Constitution that took the place of the one that was passed prior. There is also a marked difference in some of them.

Virginia carefully and studiously reforms that declaration in her new Constitution.

I have heard it said and whispered upon the streets that there was a good deal of gunpowder in the Constitution of the United States. And now, that is true, gentlemen; there is. The Constitution of the United States was the outgrowth of the most terrible of wars, and our young nation, when it stood up there, asserted the rights of revolution—of revolution against England. She maintained the right of the several colonies to rebel, and she maintained it in the Constitution. There is gunpowder in it. There is gunpowder in our Constitution. Now, I don't know but the gentlemen want to snuff gunpowder. I don't know but they do. I have no anxiety for my part. The gentlemen may talk about these things here, but twenty years ago I stood in the army of the United States; I tried, there, Mr. President, to do my duty, and there are men all over this territory that went with the army, and returned again. And I will guarantee that if the bugle calls again, they will "Rally round the old flag, boys", and that they will fall in and keep tread to the music, but it must be to rally around the old flag.

I came here, Mr. President, reluctantly, in pursuance of what I thought was my duty. I desire, as I said at the outset, that this Territory shall obtain admission to the Federal Union. If that admission can be obtained peaceably, as I said to many members of this Convention since coming here.

While differing with him widely upon the grave political issues of the day—while differing with him on these questions as much as any man on this floor—I have become impressed with Mr. Cleveland's independence since he became President of the United States. And I believe if the people will take this Constitution—if it is a good constitution—to the President of the United States, and if they will say to the President of the United States "that we have a good Constitution; that we have sufficient population; that we have a Territory that is productive in all the industries and wealth; that we have an intelligent and law-abiding people", I have that confidence in Mr. Cleveland to believe that he will exercise that independence that has characterized his acts on many occasions since he became President, and that he will say, "Gentlemen, you are entitled to admission, and ought to be admitted." I may be mistaken, but if that is done, the contest is over; if it is not done, the contest is not over. Now it may be that the time will come when it is necessary to adopt other methods, in the minds of many members of this Convention, but I ask them, "Are you going to secure admission into the Union by a declaration here that is unnecessary, admitting, if you choose, under certain circumstances, that the right of revolution is correct?" Are you going to try to secure admission into the Union by that means?

With all the confidence I have in Mr. Cleveland's judgment, I am constrained to believe by his conduct since becoming President, that he has not been driven from the position he first occupied.

Now, it is for this Convention to determine whether it is wise, under all the circumstances, to assert the right of revolution, or to go ahead by the orderly methods involving all the declarations that have been contained in most of the Constitutions, and obtain admission into the Union. As I said before, I acknowledge these propositions in their constitutions, and all free governments are founded on their authority, but if you will trace their history back, you will find they were placed in there as a right to revolution and severance from the government of England.

One other thing: I acknowledge, Mr. President, that I owe a loyalty to the United States government. It has been said, perhaps unadvisedly and unintentionally, that "perhaps he occupies that position because he is afraid of being removed." Well now, the gentlemen who have known me longest, and know me best, will accuse me of no such consideration. I came here in performance of a duty, and with no overt acts. When called upon to perform overt acts in reference to the Constitution, I hope I shall always say with the great Kentuckian,—"My country; may she be right; but right or wrong, my country!"

Mr. McCallum: I desire to make a motion. I desire at this stage of the proceedings that this matter under consideration now be committed to a select committee of five, of whom the President, if it is not contrary to the rules of this Convention, may be one, and the chairman, to take such action as may be thought best in a modification of this resolution, and submit it to the Convention next week.

The motion is seconded.

Mr. Owen: Let us hear the other side.

Mr. McCallum: Oh! Gentlemen, we have had enough.

By the Acting President: The question is upon the motion of the gentleman from Beadle to refer the recommendation of the Committee of the Whole, covering the question now under discussion, to a committee of five, of which, I understand, as included in that motion, the President of the Convention, shall be a member, to consider it.

Mr. McCallum: If conformable to the rules of this Convention.

Mr. Brookings: I will not detain the Convention but two minutes—I will not make any high, spread-eagle speech. I want to look at this question just a moment. Now, whatever there is in this resolution, is there anything we want in it? We might under different circumstances. The South claimed something on this subject, but it was wiped out by sword. Now, is there anything we want in it? I wish to call the attention of the House—

Mr. Kanouse: I rise to a point of order.

By the Acting President: What is the point?

Mr. Kanouse: The question is one of reference.

Mr. Brookings: I want to say one word on this thing. Now, let us see if this very article would not embarass Republican members of Congress? Would they admit us with that in our Constitution?

By the Acting President: Does the gentleman from Sanborn insist on his point of order?

Mr. Brookings: I do not care to submit.

Mr. Campbell: I appreciate the desire of the gentleman under the circumstances, but I desire to make a motion. I move as an amendment that this section be referred to the Committee on Judiciary, and I hope to get a second. I do not think that where there are two parties to the matter, that it should be referred to one party. Let it be referred to an impartial committee, whose judgment will be right.

Mr. Edgerton: I rise to a point of order; the question before the Convention is that it be non-concurred in. I raise another point of order. If it is to be an amendment to an amendment I raise the point of order.

Mr. Campbell: I raise a point of order.

By the Acting President: Let us dispose of the first.

Mr. Edgerton: One point of order must be decided before another is raised.

Mr. Campbell: The point of order is debatable then?

By the Acting President: The Chair holds that the point of order taken by the gentleman from Yankton is not well taken.

Mr. Fowler: I second Judge Campbell's motion.

Mr. Campbell: I desire that the aspersions made to this resolution be referred to an impartial committee.

Mr. Edgerton: I do not know anything about this resolution.

I do not want to be on that committee. I should have declined it. Judge Campbell asks that it be referred to a committee of which he and Judge Moody, who are the principal advocates of this measure, are members. Let it be an independent committee, gentlemen.

Mr. Brookings: I ask if it will be referred to an impartial committee, when three of the Judiciary Committee advocated it in the strongest terms?

By the Acting President: The motion of the gentleman to amend is in order. The Chair understands the situation to be this: The question was first upon the motion to non-concur. That motion being under debate, the motion to commit to a select committee. That motion was amended by Judge Campbell from Yankton. An amendment was proposed to commit to a standing committee, which the Chair holds to be in order. The question is shall this resolution be recommitted or referred to the Committee of the Judiciary.

Mr. Coffin: There seems to be some dissatisfaction about getting members on this committee. If it is in order, I would move to substitute for all those motions, that the Chair appoint a select committee of five to take this matter under consideration, without reference to the mover.

By the Acting President: The substitute is in order, if offered as a substitute, but not as an amendment. I understand the motion before the House to be this: Mr. Coffin offers as a substitute to both motions to refer to a select and standing committee, that the Chair appoint a committee of three.

Mr. Coffin: A committee of five, and I wish to say without reference in the make-up of that committee; that the mover is not to be considered here; and appoint that committee without reference to parties.

Mr. Owen: Let us hear further debate now.

The substitute is adopted.

By the Acting President: The question is to be referred to a select committee of five, to be appointed by the Chair.

By the Acting President: The Convention is still under the consideration of unfinished business.

Mr. Ward, of Hughes: There was a special order set for this morning.

By the Acting President: The attention of the Convention is called to the fact that there is a special order set for this morning, the special order being on the minority representation.

Mr. Ward, of Hughes: I move that the Convention adopt that supplemental report of the Legislative Committee, commencing at line 6 with this amendment: Strike out the words in the 13th line after the word "election"—strike out these words, "in the year, A. D., 1887," and insert the words, and in the same line after the word "election" insert these: "Elected after this Constitution takes effect," making the section read as follows:

"The House of Representatives shall consist of three times the number of members of the Senate, and the terms of office shall be two years. Three representatives shall be elected in each senatorial district at the first election after this Constitution takes effect, and every two years thereafter."

The motion was to adopt so much of this report, all after and included in line 10 of this report as amended. Then I move to adopt this report.

Mr. Lowthian: I would ask the gentleman from Hughes what is his idea to amend this now after the committee reported it back just as he had it drawn up? I would ask him what is his idea in amending this?

Mr. Ward: It is that the portion interfering with the apportionment committee, and which covers the whole action in line 10.

Mr. Brookings: I hope that this amendment shall pass, because we have no annual elections, therefore none would come in odd years; therefore I hope that the amendment offered by the gentleman from Hughes—

By the Acting President: The question is upon the amendment offered by the gentleman from Hughes.

The motion was carried.

Upon motion, the report of the Committee was also adopted.

Mr. Miller: Inasmuch as this supplemental report is now adopted, I would move that it be now referred to the Committee on Enrollment and Engrossment.

Mr. McCallum: Is this simply included in the supplemental report, or is it the Legislative Report?

Mr. Moody: The question before the House is not concluded, as, what is to be done with the balance of the report?

The Acting President: The balance of the Legislative Report?

Mr. Moody: Yes, sir.

By the Acting President: That has already been disposed of, the Secretary informs me.

Mr. Moody: I mean the balance of this supplemental report. Is the motion of the gentleman from Hughes to refer that part of the report that has been adopted for enrollment and engrossment?

By the Acting President: The Chair does not understand that there is any part of this report that has not been acted upon. First the gentleman from Hughes moved to amend and adopt this supplemental report.

Mr. Moody: I understand the motion of the gentleman from Hughes to be to adopt all that portion of the report after line 10, including all the second subdivision of the proposition, which is section blank. Am I correctly informed? Is the first proposition covered by subsequent or prior action of the House?

By the Acting President: The Chair doesn't so understand it.

Mr. Moody: According to the motion of the gentleman from Hughes, it is perfectly proper to refer that portion of it to the Committee on Enrollment and Engrossment.

By the Acting President: The motion is that so much of that report after line 10, including line 10, having been acted upon, be referred to the Committee on Enrollment and Engrossment.

The motion is carried.

Mr. Moody: I ask leave to be permitted to submit a report from the Judiciary Committee, in order that the subject may be acted upon, and if adopted, so that it may be engrossed, and sent to the Committee on Enrollment and Engrossment, and then to the Committee on Revision and Phraseology. Have I leave?

By the Acting President: If there is no objection, leave is granted.

The report was submitted and filed with the Secretary.

Mr. Haines: What is the order before the Convention now? Reports of Standing Committees?

By the Acting President: We were under the order of special committees, but it will be disposed of unless something is desired to be done with this undisposed of section.

Mr. Haines: I wish to submit the report of the Committee on Impeachment and Removal from Office.

By the Acting President: If there is nothing further under the head of unfinished business of the previous day, we will take up the next heading.

Mr. Lowthian: I wish to call the attention of the Convention to the Supplementary Report. I understand the Convention to adopt this report. By so doing the Convention placed in it the Constitution.

Mr. McCallum: That report is a provisional section.

Mr. Lowthian: The Schedule Committee will have power to place that in the Constitution.

By the Acting President: If the record is wrong, it should be corrected by motion. Is there anything further under this heading?

Mr. Moody: The proposition of the gentleman from Grant, it seems to me, is the correct one. The house had taken up the special order and the rule of special order was not concluded, because there must be some disposition of the special order, one way or the other. So the gentleman is correct.

By the Chair: The Chair does not understand that the gentleman makes any proposition.

Mr. Moody: So much of the report after line 10, including line 10, has been adopted, but the recommendation has not been adopted which is contained in the first clause of that report, to-wit: That the recommendation of the Schedule Committee provide for the submission of the same to the separate vote of the people. That is the question, I presume, that the gentleman from Grant desires to have put before this House.

Mr. Ward, of Hughes: As I understand it, the last section settles that question. If there is any dispute upon this proposition I should be very glad if the gentleman from Grant, or any other member, would move the adoption of the recommendation of the Legislative Committee. I will move to adopt the recommendation commencing as follows: "That the recommendation of the Schedule Committee provide for the submission of the same to the separate vote of the people." My motion is to adopt that part of the recommendation. I think it is included in the last section, but if there is any dispute on that proposition, I would like to have it settled.

Mr. Kanouse: I think we have a good opportunity now to decide as to what we mean by "separate vote". Let us understand then, that this proposition means, if you please, that this provision for minority representation shall not be printed in the body of the Constitution, but that it shall be printed separately and a separate vote provided for it; so that this question shall be settled once for all. Let those of us who are in favor of submitting to the people, outside of the body of the Constitution, this question and the question of prohibition say "aye"; those who are opposed, "no", and we will come to an understanding thoroughly, so that there will no longer be a question as to the method of submission provided by the Convention. The "aye" votes on this proposition is to submit to a separate vote provisions of the Constitution that are not included in the body of the Constitution.

Mr. Kanouse: I move that this minority representation shall not be printed in the body of the Constitution, but that it shall be printed separately, and a separate vote provided for it, so that this question shall be settled once for all. Those who are in favor of settling this outside of the Constitution, say "aye." Those who are in favor of having it put into the Constitution, say "no."

Mr. Ward, of Hughes: I am in favor of that motion for the purpose of getting this matter before the Convention; it is a very important matter, and I am in favor of the Illinois plan.

Mr. Neill: In order to get at this in the right manner, I amend the gentleman's motion by referring to line 4, which I think corresponds exactly with the proposition of the gentleman from Sanborn.

Mr. Campbell: I desire now, in order that the Schedule Committee may understand the meaning of the words "to be separately voted for", to mention the manner of printing, at one time they were printed in this manner, a section headed something like this,—Articles to be separately voted upon, and if to be adopted by the majority of votes cast, each shall be a part of this part so and so, and then the ballots are divided. The Illinois plan is, as I understand it, that the ticket shall be printed, all the articles voted upon shall be printed upon it, section so and so, and so on through, that all voters voting against the proposition shall erase all that he does not vote for; and that all votes not erased shall be counted for the Constitution, and all erasures shall be counted against the Constitution.

Mr. Moore: It appears to me that the Illinois plan does not depend upon where these articles are printed, whether at the beginning, the end or the middle, and in any event they have no right there except by authority of the people. The gist of the Illinois plan seems to me to be one of submission, and that it provides that every voter who casts his ballot for or against the Constitution shall also express himself upon this proposition, that if it is to be voted into a place in the Constitution, he must vote for or against it. If it was submitted to me personally, and met my absolute approval; if I said it was right in principle and might be right in practice, and then if it was left with me I think I should absolutely refuse to put it into the Constitution unless it was provided that the people who would be affected by that article should, every one of them, express themselves for or against it. It would be manifestly unjust if there were fifty thousand votes cast for the Constitution, and on the amendments there were only ten thousand votes cast. I believe that the whole people should express themselves with regard to it, and that it should receive a majority of all the votes cast, nothing more or less; that is what the friends of this proposition desire, and it may be that those who have advocated this new proposition will find when the ballots are counted that they are far in advance or behind the people, if so, they will find that they have some lessons to learn from them. These propositions are now in the Constitution and the thing is to get them out. There is not an article there by right, until the people endorse it, that gives the authority, that is the final court of the people and that settles the matter, nothing else will settle it. What we want to secure is a majority of the votes polled. We don't want a majority of the votes cast for or against it, we want a majority of the votes polled. If it is shown to us that a the people are so indifferent to it that they do not care to vote for or against it, then the members of this Convention will be sorry that they ever were other than indifferent. If the people show to us an absolute indifference to ballot upon this thing, then all the wise things that the gentlemen have said in this Convention amount to nothing And if this is to be the result, then, gentlemen, I would rather not be a member of any Convention.

Mr. Corson: My understanding of this matter was that this prohibition clause was to be voted for entirely separate, as a separate proposition. As was said by my associate of Lawrence County, yesterday, if that provision was embodied in the Constitution there was great danger that it would be beaten; but if submitted separately it would be much better. Now the construction of the Illinois plan, (and that is the plan that is to be adopted), should be understood by the Convention and a new vote cast upon that question. In the gentleman's proposition, as I understand it, he desires to have this provision placed in the Constitution, printed as a part of the Constitution with the understanding that they are not to be a part of the Constitution unless they are so voted for, that is they are placed in the Constitution but do not become a part of it unless by a majority of votes. Let this proposition be separate from the State proposition and let the people pass upon it if they will. They should be submitted separately, upon a separate ballot, and before they are adopted they must have a majority of all the members voting for that Constitution. If there are one hundred thousand or seventv thousand votes cast for the Constitution, then these amendments must have a majority of those votes; that is perfectly fair. If the friends cannot secure from the people votes enough to give them a clear majority of all the votes cast in favor of the Constitution then it has not carried. We are willing that this should be submitted to the people, and that they should have those votes. If you can secure a majority of the votes cast in the Convention, you are entitled to your amendment and it should have a place in the Constitution. But if you fail to do that, then you fail to carry your majority.

Now I think it is but fair, this is a Convention of the people, and that there should be no catches in this matter. It seems to me this idea of printing these propositions in the Constitution that have not been adopted, is all wrong. We do not adopt this and say we vote this a part of the Constitution; we simply say we are willing that should be submitted, that is all; in the vote in this Convention upon the proposition made yesterday on Prohibition, I apprehend I voted in favor of submitting this prohibition question to the people. I do not understand that I have been voting in favor of Prohibition. It is a matter left to my judgment, so I suppose a great many who voted yesterday for submitting that question did not mean to be understood that they were voting in favor of prohibition; they were voting to submit the proposition to the people, that is all.

As I said before, as to the balance of this Constitution we should publish and place before the people of South Dakota, and assume to say as a body that we believe that they are proper, right and just, and we approve of these propositions.

Now I submit, if we proceed with this matter now, it should be definitely understood and that we should have no more misunderstanding about it, that we are submitting these propositions as separate propositions to be voted upon,—that we are simply leaving them with the people to decide.

Mr. Ward, of Hughes: I call for the reading of the question.

Secrteary reads. (amendment on file).

Mr. Neill: It seems to me that the gentleman in his remarks, by implication at least, was in favor of putting this in to the Constitution. I think the submission, clearly, that we offer, (in due deference to him),—I do not consider that it is put into the Constitution when it is added as a codicil, or placed at the beginning of the Constitution; the place that it should occupy is immaterial; I want it in our Constitution to come up before the public and be submitted to the people; whatever its proper place, when it was printed, that does not make any difference; neither does it constitute it a regular proposition, it is a separate proposition all the time.

It seems to me that on all the old tried principles of government our opinions are clear; they do not appear to be quite clear with reference to a few things, that I think we will be able to clear up.

We may feel this matter of minority representation is an experiment, and as members of this Convention we may not be prepared to assume all the responsibility of the experiment; we say that the people should take the responsibility of the experiment. We may be personally clear in our convictions; as I happen to feel in my own with reference to the stand that I have taken by my votes upon all the propositions that it is proposed we submit to the people, and that though we may be clear, we do not want to assume the responsibility of what the people regard an experiment; we submit these several propositions separate from the other and say to the people with reference to these acts we have no doubt; experience of centuries has settled them—that we agree upon those more than that we assume in submitting them that you agree with us and that the majority of the people will agree with us. When it comes to the other propositions, such as Mr. Ward, of Hughes, presents,—minority representation, the prohibition clause, we provide for a separate vote; that is what we want, but we do not want a separate vote of five, ten, or twenty thousand, when there are one hundred and twenty thousand votes polled. We want a separate expression, and that expression must be a majority of these votes polled.

We do not want it to be separated in our endeavors to get it before the people. We want the people awakened upon the question, and a full expression.

Mr. Cranmer: If I correctly understand the motion of the gentleman from Grant I shall certainly vote against it.

I am opposed to submitting as a separate proposition to be voted upon by the people something that I would not vote for myself at the polls. I cannot see how any member of this Convention can vote to submit as a separate proposition to a vote of the people, something he would not vote for himself. I think it thoroughly useless for us as a Constitutional Convention to submit it as a side show, something we would not agree in.

Now if we submit something wholly as a side show to a vote of the people, we say to them we have not considered this of sufficient importance to incorporate into the Constitution ourselves; but on the ground that a majority of the members of the Constitutional Convention endorse this proposition we throw it out to the people and if you choose to endorse it then it may become a part of the Constitution.

On the other hand if we find that a majority of the members of this Constitutional Convention are of the opinion that the more correct view to take of it, and the best course to pursue is to incorporate it into the Constitution, why then we say to the people, if you choose to ratify our action, it may remain a part of the Constitution, if you choose to disprove of our action, you may strike it out! I want every question that goes before the people to bear upon its face the endorsement of this Convention; I am willing that any side show may be submitted to the people without the endorsement of this Convention.

Why! If we are to submit as a separate proposition without being incorporated into the Constitution every little question which comes up, before us, we may submit prohibition, the "Dakota Plan", Female Suffrage,—and every little question which is voted on by the Convention, may be turned out to the people to be voted on by them.

I hope prohibition will not go before the people of Dakota unless it has a majority of the votes of the members present in this Constitutional Convention.

I hope the principle of minority representaiton will not be thrown out on the people unless it has received the majority of the votes of this Convention. A question is unworthy a place at the polls, unless it has been endorsed by a majority of the members present; and if the motion of the gentleman from Grant County means that the question of prohibition,—means that the question of minority representation are to find a place in the body of the Constitution, find any endorsement here and are to be thrown out wholly as side issues, so that a citizen as he comes to vote can not tell whether the measure receives the support of the members of the Convention, or that it will be supported by them at the polls, I am opposed to it.

Mr. Fowler: Mr. President and Gentlemen of the Convention: Now this is the Illinois plan; while a young boy at the time, I happened to have some experience during the discussion that arose before the adoption of the present Constitution of that state; I took some part in the canvass thereon. They made and submitted about nine propositions as I remember, minority representations among the others. The Constitution of the state as proposed was a complete instrument in itself without any other article or proposition whatever.

There was then a proposition submitted separately favoring minority representation, another one concerning the Illinois and Michigan Canal; two or three I believe concerning the Illinois Central Railroad and so on. My recollection now is that there were nine in all, six or seven of which were carried. They were each submitted as a separate proposition for the people to vote upon and adopt or reject, and it was further provided that in case the Constitution as submitted should be rejected and either of the propositions met with a majority of the votes cast at the election, it should then become a part of the Constitution then existing.

The proposition of course that has any bearing upon our position is one for the sake of expediency, to compel each voter of the state to express his preference for or against either proposition; the Schedule Committee prepared a ticket and submitted first for the Constitution; second for a certain proposition; third for another, and so on through the whole ticket, concluding with the condition that in case any person or voter should scratch out or erase any printed proposition upon the tickets he thereby voted against such proposition.

In other words, giving the voter the right to say, by not voting upon a proposition, that he voted against it. It was simply a matter of expediency, a matter of convenience to the voter, to enable him to cast his vote against any separate proposition by not voting at all. As a matter of fact, no proposition was a part of the Constitution, and to substantiate my position, Mr. President, I will refer the members of the Convention to the fact that by the result of the adoption of the minority system, the original sections 7 and 8 of the legislative department became null and void and are not now a part of the Constitution. But the minority representation took their place and became the law. Now, Mr. President, so far as the proposition of the gentleman who has preceded me, is concerned, I feel this way: I may not myself desire to support a particular proposition as a part of the proposed Constitution, and I probably wouldn't vote for it, at the same time, I have sufficient confidence in my constituents to submit the proposition to them separately from the Constitution—not endorsing it myself—and let them say whether it shall be the law of the land or not. I have no fear of the judgment of the people of this Territory upon these propositions. The gentleman and myself may differ upon the propositions proposed to be submitted. So far as the minority representation is concerned, I heartily endorse it; and so far as the prohibition proposition is concerned, I just as heartily oppose it, because I think it not practicable and can not be enforced; but I say give the people a chance to express their preferences upon these propositions, but do it separately.

Mr. Dow: I do not wish to discuss this main question, but very little, but I take it that two of the gentlemen who spoke some time ago threw out some ideas that were not pertinent to the point in question. If they are, I wish to protest. It is this: I am most decidedly in favor, if this Convention sees fit to submit the question separately, but the idea of its being submitted separately and not separated from the Constitution—I can't see the justice in it. The gentlemen have conveyed the idea that they are in favor of the separate submission of this question, and at the same time require a majority of all votes cast for other questions. This is not a fair shake on any question. I say if we submit a question separately, let it be submitted separately upon its own merits and be carried by a majority of the votes that are cast upon that question. If not, put it into the Constitution and let it share the result of the Constitution. The idea of separate submission, and then say, "We shall require a majority of all the votes cast, not only upon that question, but the other questions, is a contradiction in terms, and if the Schedule Committee provide such a provision I should oppose it most bitterly. The people understand the question and they have a right to vote for or against, and just because they are too negligent to vote upon that particular question is no good reason why it should be counted as a vote against. Let the votes cast upon that question decide that question.

Mr. Gehon: I wish to offer the following as a substitute for the clause under consideration: "Resolved, that the Committee on Schedule shall provide for the submitting of all the independent propositions on the Illinois plan." (Seconded.)

Mr. Lowthian: What do we understand by that Illinois plan —section by section or the whole? There is no analogy between our Constitution and that of Illinois.

Mr. Wright, of Brookings: Mr. President—

Mr. Brookings, of Minnehaha: Wouldn't it be time enough to discuss this question when the Schedule Committee report back?

By the Chair: Mr. Wright of Brookings, has the floor.

Mr. Wright, of Brookings: Mr. Chairman, I thought yesterday when I voted on the question of prohibition that I knew how I voted, but after listening to the gentlemen this morning, I have concluded that I did not. I supposed that I voted on it as an independent proposition. I supposed when this Convention formed a constitution and approved the same and submitted it to the people that it was complete in all its details. But I understood that these provisions for minority representation and prohibition were to be submitted to a separate vote. Now, I desire to have it so that if I shall wish to vote for this Constitution alone I can do so without voting for or against minority representation. I desire the same submission as to the vote for prohibition. I would inquire of the gentleman from Grant if his resolution expresses that condition of things—if, under his resolution I will have the opportunity to vote for the Constitution as approved by this Convention, without voting either for or against minority representation or for or against prohibition; without voting either for or against any other question as a so-called independent resolution?

Mr. Neill: Most certainly.

Mr. Wright: Then, with that understanding, I shall support the resolution of the gentleman from Grant.

Mr. Campbell: The Committee on Schedule would prefer to have this Convention speak with no uncertain voice their view on this matter, and let us know what you mean by the "Illinois plan" or any other plan you adopt.

Mr. Corson: I request it be made the special order for Monday. It is a question that I regard as of very vital importance, and it shouldbe carefully considered. Let us have until Monday morning to look that matter over.

Mr. Moody: This is an important question, as Judge Corson has stated, and it is a question that the members of this Convention ought not too hastily to consider. Much has been said about the Illinois plan. Now, my head may not be very clear, but upon my word, it will take some time to study and ascertain to my own satisfaction just what the Illinois plan was. The intention of that constitutional convention was not to lose the benefit of its labors under any circumstances; they were authorized to do two things, to propose amendments to the Constitution, or to draft a new Constitution, or they were authorized to do both; and therefore they made such provisions that if the Constitution which they had drafted was voted down, nevertheless if the separate propositions which they had submitted were voted for by a majority of the votes, that they then should become amendments to the prior constitution. They had months to canvass for the vote, they had months to place the proposition before the people; they had newspapers of wonderful enterprise in that state to disseminate the information. Why, gentlemen, you are putting these propositions before this people only with about thirty days to make this canvass in a territory that is four hundred miles in length and two hundred and odd miles in width; without railroad communication in many instances, where it takes a week or ten days to reach the communities by ordinary course of mail. You do not want to submit to this people any indirect proposition. But you want to submit the plainest possible proposition you can submit to them, so they can see it at a glance. And it is the easiest thing in the world to submit the proposition. I am unalterably opposed to the putting of these propositions into the body of the Constitution until they are adopted by the people. I so fairly understood Dr. More in private conversation; I hope I understood him so in his public speech. I do it because I am of this opinion—because I honestly think if you put these propositions into the body of the Constitution, you will drive these men to vote against your instrument. I want to allow them to vote for that portion of the Constitution usual in form, and permit everybody else that desires, to exercise their rights to vote on this portion which is unusual in form.

Now, take this proposition which is before this House. The author of that proposition was Mr. Medill; he was an advocate of that proposition. He supported it with all the warmth of his warm nature; they did not know what they were voting for. Now, if it came up before the people of Illinois, it would be buried so deep that none would ever see it. Mr. Medill repudiated it. Nevertheless, I am not sure that the people of Illinois should not exercise their discretion.

I recognize that we have here representatives of the people of this portion of Dakota and if any of them desire to have any proposition, which seems to be properly submitted, I am perfectly willing that they should exercise their votes upon it. I do agree with Dr. More that no single proposition should be permitted to become a part of the organic law that does not receive the votes, because of a failure of the voice of the people; I do not believe that a proposition should become a part of the organic act without that majority. Now, that is correct in principle, correct in practice, and correct in every other way, and it is the easiest thing in the world to properly put it before the people.

As I stated before, the representatives of the people of Illinois sat there for weeks and weeks. It was composed largely of lawyers, some the ablest lawyers, some the most technical lawyers in the State of Illinois were found in that convention. We all know what their work was, and the time in which they had to perform it. Here we are crowded into the space of three or four weeks, because of the necessity of submitting these things at the next general election, only 30 days after the adjournment. And I say to you, my associates, in this Convention, you must be very careful of the details of this work, or it will go for naught. If our work is voted down by the people, we know full well that you and I will be condemned, and justly. Now, I know the responsibility, as well as you do, on these points. I want to make this a success. I am willing to make that a success so far as possible, and leave the balance. If a man can not get all that he wants in the Constitution, and can get the first steps towards statehood, it seems to me that he ought to be satisfied with that, and struggle for the greater—take the less if he can not get the greater—and struggle for the greater.

Now, Mr. President, this is as simple a subject as can be devised, it seems to me. Then all these conflicting interests can be settled, and nobody can be harmed. Everybody can see exactly what he is voting for. He who is able to read or able to hear others read to him, will know just exactly what he is voting for on all these propositions. And this form submitted by the Convention of Nebraska was the simplest and most easily understood, and obviates all the difficulites which surround what is callled the "Illinois plan". Why, this Illinois plan, I have not heard two men agree upon in this Convention. And I guarantee that there is not a man here who can tell what that plan means, and how it can be successfully criticized. All I ask is this: Our desire is for self-government, to have courts sufficient for all the litigants in this country, and all the paraphernalia of a state. Those of us in that condition prefer that as the first thing. Some of us desire these things, and some of us do not desire them Some of them desire them by adopting this simple plan, it seems to me.

And I put it before this Convention, that they may consider it, and I concur in the motion submitted by my associate from Lawrence, that this matter should go over, and let us go over it carefully. Now, this is the way, they ought to put it:

"This Constitution shall be submitted to the people of the State for adoption or rejection, at an election to be held on the second Tuesday of November, A. D., 1885, and there shall be separately submitted at the same time for adoption or rejection the independent article relating to the seat of government, and an independent article, allowing the electors to express their preferences for United States Senators."

Those were the two separate articles.

"At said election, the qualified electors shall vote at the usual places, and the election shall be conducted according to the usual manner.

"At said election, the ballots shall be in the following form:

"For the New Constitution.

"Against the New Constitution.

"For the article relating to the seat of government.

"Against the Article relating to the seat of government.

"For the article allowing electors to express their preferences for United States Senators.

"Against the article allowing electors to express their preferences for United States Senators.

"The returns of the whole votes cast, and the votes for the adoption or rejection of this Constitution, and for or against the articles respectively submitted shall be made by the several county clerks to the Secretary of State within 14 days after said election shall have been held, within three days thereafter, be examined and canvassed by the President of this Convention, the Secretary of State, or any two of them, and proclamation shall be made forthwith of the result of the canvass.

"If it shall appear" (it is so simple and like the ordinary election that anybody can understand it). Anybody in favor of the new Constitution will have an opportunity of voting for the new Constitution, and will all be on the same ballot. We can not have two ballots. If against the Constitution, they will have an opportunity to vote against it. He will have an opportunity on his ballot to vote for or against an article entitled "Prohibition".

If he is in favor of minority representation, he will so state. If for the Constitution, he will so signify; if for the article entitled "Prohibition", he will so vote. He will vote for one and against the other. It is the simplest language, it seems to me that can be devised. Take this, and you do not conflict with the Illinois plan.

It is the same as voting for bonds for any purpose. The ticket reads like this:

"Those in favor of issuing bonds to fund the outstanding indebtedness, will say "for bonds." Those opposed "against bonds".

And everybody understands it.

"If it shall appear that a majority of the votes polled are for the Constitution", then it is adopted; if they are against it, then everything is gone. The Illinois plan kept alive the separate propositions, notwithstanding the Constitution was voted down, and they became additional articles to the Constitution.

Now, then, "If it shall appear that a majority of the votes polled are for the Constitution, then so much of this Constitution as was not separately submitted to be voted on by article, shall be the supreme law of the state on and after the first day of ———

"But if it shall appear that the majority of the votes polled were 'against the Constitution,' the whole thereof, including the articles separately submitted, shall be null and void."

Is not that just what you have got to prepare for in your schedule?

But "if the votes for the new Constitution shall adopt the same, and it shall appear that a majority of the votes polled are for the article relating to the seat of government"—that is just exactly Mr. More's position—"said article shall be a part of the Constitution of this State."

"If it shall appear that a majority of the votes polled are for the article allowing said electors to express their preferences for United States Senators, this article shall be a part of the Constitution." Unless a majority of all the votes polled be against this proposition. I so understand him.

Delegate: When this Constitution was submitted to the people of Nebraska, where were these submitting clauses printed?

Mr. Moody: Right at the end of the Constitution.

First title (blank)

Second title (blank) and so on.

And that is just exactly as I would have done here. Put it right at the end of your Constitution. Mark each proposition separately submitted, and then submit them, and your people easily understand the matter, and not by any complication that some two or three dozen or more technical men in the Illinois Legislature were able to prepare to submit to the people, in order to make it blind to all the common people.

I speak of the common people, Mr. President, because I have the greatest respect for the ruling of the common people. Politicians, men in public life that are not politicians, professional and business men—men whose duties are such that they rub against one another, warp and twist, and you can not always rely upon their opinions expressed in the aggregate, but it is a rule that ever since the enlightenment of the world you could not rely on the opinions of these men, as you can rely on the opinions of the common people, and their aggregate expressed opinion.

Now let us see what will be the result of this proposition if adopted. If we carry a proposition like prohibition we must have at our back, in order to secure its enforcement, a public opinion that will demand its enforcement, because it is a law in the land, and if you have it not, your law is a dead letter. That law must be embedded in the hearts of the people, it must be based upon their good opinion, or else it may as well be ashes in our fireplaces. Therefore, I agree with Mr. More, one of the ablest, one of the most reasonable advocates of prohibition, that we must require a majority of the votes cast at the polls on election day to secure the success of any one of these provisions; upon the same doctrine and upon the same principles that the balance of the Constitution has required a majority of all the votes polled, before it can become a law. At your election a man may vote for the Constitution, but you have no right to say to him that he shall vote for or against prohibition, he may not be prepared to vote for it. I have a right as an elector to exercise elective franchise, I have a right to vote for just as much as I want to under the organic act as prescribed, and you cannot say that I shall vote upon this proposition one way or the other. My conscience may be such that I am not permitted to do so, I may not have arrived at a conclusion that may satisfy it; I may not know what are to be the results, I may not have formed an opinion sufficient to justify me in exercising the right to vote upon a proposition that is to be embodied in an organic act. The sale of intoxicating drinks I believe to be an evil, and the object to be attained is its ulitmate suppression; if it can not be suppressed in one way, it can be done in another. It is a practical question, not one that a man can hide behind. If we can accomplish the suppression of the evil, it is the duty of every man to so act that he shall have, at least, accomplished an effort in that direction. Therefore, I feel that I am but voicing the opinion of any elector who may be in the same condition of mind that I am—unwilling to take the responsibility of voting upon a proposition not knowing what its effect may be, never having witnessed any place where it was in force, and if I have that doubt I have a right to exercise it and this Convention has no right to disfranchise me. I have the right to exercise that doubt, the right which is given me by the law which forms the very germ of our commonwealth.

I am opposed to this minority scheme because it is wrong in principle; it gives a man the right to cast three votes instead of one—

Mr. Brookings: The gentleman is violating the rules by speaking half an hour.

By the President: If the Convention has no objection Mr. Moody can proceed.

Mr. Ward: I object to his discussing the minority question as it is not before the House.

Mr. Moody: I may be wrong and unparlimentary, but I don't mean to be, but it seems to me that it is the gist of what is before the house—

A Member: I call for a decision of the point raised by Mr. Brookings.

Mr. Brookings: I withdraw my objection.

A Member: I move that the gentleman's time be extended.

Mr. Moody: I beg the pardon of the Chair if I have talked too long upon this subject. But the desire of every man here is to accomplish certain things, not to destroy all that has been done. I do not want them to put this in such a form that they will destroy the very substance, itself, and I trust that these propositions will be separately submitted, so that everybody can vote intelligently upon it. I make no objection to letting the people determine it for themselves intelligently, but these propositions are additional to the Constitution, they are collateral to it.

Mr. Ward: I agree with the position taken by the gentleman from Lawrence. I do not come before this Convention with a desire that the people shall be deprived of a fair and just representation on the question presented to them. I claim for myself and the people who I represent as large a degree of patriotism as the gentleman from Lawrence. And I believe that if the people have the intelligence to vote upon the Constitution they have the intelligence to vote upon this also. I am willing to waive everything conflicting with the success of the Constitution. I approve of separate submission, if the Illinois plan is separate submission, let us have it. As for minority representation, the gentleman from Lawrence may be better versed in law, but I believe I am competent to judge of the plain facts. Illinois has tried this plan with good results, but as I said before I am willing to waive that which may stand in the way of the Constitution.

Mr. Dollard: I move that we now adjourn until Monday at nine o'clock.

By a Delegate: The motion is out of order.

The Acting President: The Chair rules that the motion of Mr. Dollard, of Bon Homme, is in order, and the first thing to be determined by the Convention, is the motion to adjourn.

Mr. Owen: Is the motion simply to adjourn?

Mr. Dollard: Until nine o'clock, Monday morning.

Mr. Brookings: I think, Mr. Cahirman, the motion to adjourn and the motion to fix the time of adjournment, is always in order.

The Acting President: That would be the opinion of the Chair, and the question as stated next to be determined, is the motion to adjourn until nine o'clock Monday morning.

Mr. Owen: Does the Chair hold that the motion to adjourn to a stated day, in order? I oppose the motion to adjourn until Monday.

By the Chiarman: It is asked that the Chair name the select committee that was provided for by the resolution of Mr. Coffin, of Beadle. Before I do this I may as well suggest that the Chair prefers to do it before hearing any further discussion, because the Chair is entirely unacquainted with the views of the men appointed, and his only desire was to secure fair men; the Chair announces as a committee, Coffin, of Beadle, Corson, of Custer, Haines of Turner, Westfall, of Codington, Dollard, of Bon Homme.

Mr. More: I ask leave of absence until Wednesday, train time. Granted.

Mr. Gehon: I ask leave of absence until Monday, at 2 o'clock. Granted.

Mr. Kendall: Asked leave of absence until Monday at two o'clock. Granted.

Mr. Grant: Asked leave of absence until Tuesday. Granted.

Mr. Potter: I have a report from the Committee on Engrossment and Enrollment,—(Sending papers to Chair).

Mr. Moody: I suggest that those reports just reported by the Committee on Engrossment and Enrollment, go to the Committee on Arrangement and Phraseology.

By the Chair: Such will be the order; the Secretary will see that it is done.

On motion, the Convention adjourned until two o'clock.

Mr. Kanouse: Having been informed by the Stenographers that they are actually worked beyond their power of endurance and that they require time to catch up with their work and a little rest, and that I know the members have been talking themselves tired, I move we now adjourn.

Which motion was duly seconded.

Mr. Goddard: May I be allowed a word. I have been asked by the President of the Ladies' Christian Temperance Union, the use of this hall for a Temperance Mass meeting, to be held at 3:30 o'clock tomorrow, if it is order, I move the Convention grant their request, and direct the Janitor to prepare the hall for that purpose.

Seconded.

By the Chair: Will the gentleman from Sanborn withdraw his motion for that purpose?

Motion withdrawn.

Upon putting to vote the motion of Mr. Goddard, a division of the house was called for, resulting in a vote of 40 ayes, and 4 nays.

Mr. Haines: I ask the unanimous consent to offer a report from the Committee on Impeachment and Removal from Office. (Sending it to the Secretary's table).

By the Chair: Will the gentleman give way, and allow the reports that are ready to come in and go to the Printing Committee,—and as we have reached that order of business, reports of standing committees,—are there any committees to report?

Question recurring upon an adjournment, is carried.

FOURTEENTH DAY

September 21, 1885.

Session was opened at 9:05, A. M., with prayer by the Rev. Wm. Craige, as follows:

O Lord, God, we come into Thy presence this morning, with uncovered heads, and bow before Thee. Thou art a great God, and well worthy of our personal adoration. When we consider how Infinite Thou art, and how small we are, we sometimes wonder that our worship is acceptable in Thy sight.

Thou art our Creator; Thou hast made us; in Thee we live and move and have our being; Thou hast formed all the parts of our wonderful bodies; Thou hast given us our minds, Thou hast given us our faculties; Thou hast put into us the religious feelings; Thou hast put into us all of these higher natures. We bless Thy name that Thou hast so endowed us with all these gifts, and that Thou art caring for us; hast cared for us during all the days of our lives ever since Thou hast put us upon the earth; Thou hast cared for us, and hast ever kept us by Thy side; Thou hast ever kept us in the hollow of Thine hand, under the shadow of Thy wings.

We thank Thee for the peculiar relations Thou hast established among men; we thank Thee that Thou hast established the family relation among us; that out of the family Thou hast formed the great community; and from the community Thou hast formed the state, and out of the state, Thou hast formed the mighty nations..

We thank Thee that Thou hast caused us to form laws by which we can know our duty one towards another, and towards Thee. We thank Thee. O Lord, that Thou hast not left us in the dark concerning these things. We thank thee that Thou hast given us Thy laws, Thou art the greatest law giver; Thy laws are pure, holy, just, and righteous,—there is no flaw in them; we pray Thee this morning, that as we have been sent here by our fellow citizens to enact laws for the coming state that Thou would help us to look inquiringly to Thy law, and find all Thy precepts which must govern our relations, one with the other; we pray that we may recognize in thee the greatest law giver that ever gave laws to man. We pray that Thou wilt control the thoughts of these our fellow citizens who have met here for the purpose of framing a constitution, to the end that none but just, and righteous laws may be incorporated therein.

We pray that Thou will guide the thoughts, the deliberations of the members of this Convention, with the wisdom of Thy spirit, and everything that is done, may it be for the best interests of this people, for the best interests of the homes, of those now here, and of those who shall come in the future days. Grant that none of Thy servants in Thy presence this morning, may have cause to look back upon his work in this body with regret, but that everything may be done to Thy honor.

These favors we ask this morning for the sake of our Redeemer, AMEN.

The Journal of Saturday was here read by the Secretary and approved.

Mr. Kanouse: under the order of unfinished business, said: It seems to me, Sir, an unfortunate thing that in the debate concerning the best methods of these questions, we have been not only discussing the methods, but the merits of the questions themselves, submitted. It would have seemed more in order if the debates upon the merits of the questions submitted could have preceded the vote by which the Convention decided to submit the propositions. But the debates having followed on the question of methods, the record of our debates; stands like a jug with the handle on one side.

We are willing that it should so stand, at least without a simple denial of the counts in the indictment, especially concerning the question of Prohibition.

Being one of the Committee on Rules and Order of Business, certainly, it is not my intention to trespass upon the rule recommended by the committee, to limit the speeches on these questions to five minutes.

Mr. McCallam: Are you speaking upon the motion now before the Convention?

Mr. Kanouse: Yes, sir; upon the subject introduced by Mr. Gehon, that we adopt the Illinois plan.

In the briefest possible manner I desire to say that the people are in favor of prohibition, as against the assertions to the contrary that we are in favor of Statehood, and desirous of obtaining it, and that with the exigencies upon us which makes it a matter of the greatest possible importance. But along side that proposition I say for myself and those whom I represent that we are also anxious to secure the protection of society, the protection of the new state. if statehood shall be granted us, from a traffic which is the conceded source of three-fourths of all the crime committed, of the burden of taxation imposed upon our people, the filler of our jails and penitentiaries and asylums for the insane. I desire to say in answer to the suggestion that a careful and wise restrictive system of legislation is the best, that for two hundred and fifty years we have worked along that line and have made a miserable failure of it. I want to say in answer to the suggestion that prohibition can not be enforced, that if we are prepared as a Convention to take that position in accord with that sentiment expressed then let us tear down that motto, "Under God the people rule" before we put it up. If the will of the people can not rule, then let us put over the top of the Stars and Stripes, above that motto of "Under God the people rule", blear-eyed, lascivious, gambrinus, and as we hurl our republic over into the abyss with the republics that are gone, let us go down with the cry "Long Live King Gambrinus" if he be our king, and not the will of the people. Mr. President, I feel that these views should go along-side of those already expressed that we are as patriotic and as earnest and enthusiastic in behalf of statehood as any class of people in Dakota, I here assert without fear of successful contradiction. But I understand that we are agreed to submit this proposition, and it is the only method by which we are to submit it that is under consideration. I desire to submit as a substitute, this:

"RESOLVED, That the Schedule Committee be instructed to provide for the separate submission to the people of all propositions upon which it has been or shall be agreed that a separate vote be taken, and that all such separately submitted propositions shall be carried and become a part of the Constitution if a majority of the votes cast for and against any one of said propositions shall be in its favor." (seconded.)

Mr. Campbell: Mr. President, to carry out the views of the gentleman, and in order that the points discussed Saturday and this morning shall be thoroughly met and understood, so that the Schedule Committee may not be at a loss as to your wishes, I have formulated the following resolution which I present either as a substitute or as an amendment: "Resolved, that it is the sense——

Resolution on file with the Secretary.)

The only difference between mine and that of the gentleman from Sanborn, is that I have added a little more in the nature of specification. I have included his and some more. I propose it for the sake of harmony only.

Mr. Kanouse: If I may have the consent of the House, I will withdraw my motion; this of Mr. Campbell is complete in itself and I have no desire to encumber the record with unnecessary resolutions; therefore, I second the gentleman's resolution.

Mr. Corson: Is that the same as the Nebraska plan?

Mr. Campbell: The votes "for" or "against" I think are the same as the Nebraska.

Mr. Haines: I may misapprehend—

Mr. More: I move the previous question.

By the President: You can't move the previous question with a gentleman on the floor.

Mr. More: O, I beg pardon; I was not aware that the gentleman had taken the floor.

Mr. Haines: I may misapprehend the proposition as read, but if I heard correctly, there is no limitation upon the adoption of any separate proposition, even though the main body of the Constitution is not adopted at all. I think I am correct in that proposition; so that the resolution needs qualification in that respect at least. The question as to majority I suppose has been fully canvassed; that is it may very likely be the sentiment of the Convention that each distinct, separately submitted proposition shall become a part of the Constitution, (always provided the Constitution itself is adopted) when a majority of the votes cast upon that distinct proposition shall be for that distinct proposition. That is to say, that in ascertaining whether a distinct proposition is adopted, reference shall be had not to the whole number of votes cast for the Constitution but to the whole number of votes cast for that proposition. I submit, Mr. President and Gentlemen of the Convention, that I have some question about that upon which I would like to hear the opinions of the members; whether it be wise to frame into our Constitution either of these seperately submitted propositions as to prohibition, minority representation or extension of suffrage, without providing that the majority shall be of all votes cast for the Constitution. I advocate no especial view, but I have some question in my mind as to the advisibility of that proposition, as to the form of the tickets contained in that proposition. Now, then that proposition, which is called the Nebraska plan, is that in order that the ticket may cover all these propositions, these separately submitted propositions, as well as the main proposition, your form of tickets must be as varied under the rules as the permeation under these different questions would permit of. A large number of different forms of tickets are possible, and it would be impossible to number and distribute, so that a man might select such as he desired to vote. For instance, some may favor the Constitution, and oppose everything else. Some may favor Prohibition, and oppose everything else; some may favor minority representation, and oppose everything else; some may favor the extension of suffrage, and oppose everything else. So that 9 or 10 forms of tickets or more are needed. Now, in Nebraska, I believe there were few propositions submitted by the state; the state provided for the printing of the tickets in different forms, and for the distribution of the same. And it seeems to me if anything like a uniform plan is provided, it would be well to have the Missouri plan. On each proposition submitted are the words "yes" and "no" requiring one or the other to be stricken out by the electors to make his vote effective.

Mr. McCallum: I apprehend from the reading of the amendment, or the substitute, as offered by Judge Campbell that it will lead to more confusion than the Nebraska plan suggested last Saturday. I fail to see where any confusion can come from balloting with this on it: "For the Constitution," or "Against the Constitution," "For the Article on Prohibition;" "Against the Article on Prohibition."

Now, it seems to me that more confusion must necessarily arise from voting that ticket than voting the one as suggested last Saturday. There is nothing complicated about that; nothing at all. In this proposition those in favor of the Constitution vote for it, and those opposed, against it. The Nebraska plan proposed on last Saturday, provides that these several propositions shall have a majority of all the votes polled. That was putting it strong. I am in favor of the question of Prohibition, Suffrage, or Minority Representation being secured by a majority of all the votes polled on these several propositions, and yet I do not know that it is the best plan. But it seems to me that by that plan there will be confusion, because the Constitution proper may be carried by a majority of 40,000, and then these other propositions might be carried by a vote of 15,000, and it seems to me as if that could not be the best plan. But this double ticket, it seems to me would lead to more confusion than the plain plan proposed by the Nebraska Constitution.

Mr. Neill: Mr. President, I demand a division on that question.

By the President: Division is called for.

Delegate: Upon what question is the motion?

By the President: Upon Judge Campbell's substitute. (Carried.)

Mr. Neill: Mr. President, I think you misunderstood about my division; I called for a division of the question, and not on the vote. That resolution, as submitted, contains three different propositions. I think we ought to arrive at some separate conclusions on those different propositions. I think it would be well to dispose of them one at a time.

By the President: The substitute is carried, and it is too late to call for division now.

Mr. Coffin: I rise to inquire whether this is the proper time to hand a report of a special committee?

By the President: The reports of select committees will come in their regular order, when we reach it.

Mr. Coffin: I submit the report of the special committee on Judge Campbell's resolution. (Read and filed with the Secretary.)

Mr. Ward, of Hughes: I move the adoption of that report.

Mr. McCallum: I rise to make an amendment.

Mr. Moody: I am in favor of the report so far as it goes, but it strikes me we are duplicating the latter part of the report.

By the President: It is a substitute for that portion of the Bill of Rights.

The motion prevailed.

Mr. Gunderson presented a report, which was placed on file with the Secretary.

Mr. Neill: What bill is that?

By the President: It is a resolution.

Mr. Conniff: I wish to make a motion on the "Dakota Plan".

By the President: The resolution offered by Mr. Gunderson is referred to the Legislative Committee.

Mr. Moody: There is a report from the Judiciary Committee that I desire to have acted upon, it is very short. It provides in substance that the Governor may have authority to call upon the Judges of the Supreme Court for their opinions on important legal questions which are involved in the discharge of the duty of the Executive. It does not seem to be printed or laid upon the tables, but it is so short that I think any member can remember it. I do not care to present any views to be submitted to the Convention. The Judiciary Committee have unanimously agreed upon the question and have reported it to the Convention. It is a very proper one and I recommend it to the Convention. I consent to the arrangement of the Phraseology Committee. I don't think it will need any engrossing.

The report is adopted.

Mr. Weatherwax: I move that we take up the report of the Election and Right of Suffrage Committee, and that the Convention resolve itself into a Committee of the Whole.

Mr. Dow: I desire to offer an amendment to that report, but I am not ready to consider it this morning, and I move that the consideration of that report be made a special order for Wednesday morning at ten o'clock.

Mr. Moody: I wish to say that it is a matter of absolute importance that we proceed with this business as rapidly as possible; that the reports that are adopted in this Convention should be placed in the hands of the Engrossment and Phraseology Committee before we go to bed Saturday night. The President of this Convention is called upon, on account of his official duties to go to a remote part of the Territory early next week, and there are members who feel that they must go, and therefore, I now urge that the Convention proceed with the utmost rapidity and place these reports in the hands of the Enrollment Committee, and then by Saturday night we can close up, or nearly so.

The Convention resolved itself into a Committee of the Whole, with Mr. Smith in the chair.

Committee of the Whole.

The Secretary reads the first section of the report of the Committee on Elections and Right of Suffrage.

Mr. Dow: I move to amend that section by striking out the word "male" in the first line.

Motion seconded.

Mr. Dow: I don't know but the members of this Convention would like to shut down on a discussion of that point. But I have refrained from taking the time of the Convention in the discussion of other matters, that I might have the indulgence of the Convention on this point, but I will abstain from speaking upon it now, but perhaps take it up sometime before the Convention closes. I want to beg the indulgence of the Convention upon that question before it adjourns.

Mr. Owen: I should vote to strike out that word "male" but there is a proposition to be submitted to a separate vote, and when we come to that I will vote for that question.

The motion is lost.

SEC. 2.—

Mr. McCallum: There is a minority report from this Committee but I don't see that it is printed. I will ask the Secretary to read it. It is on Section 2. (Read by the Secretary.)

Mr. McCallum: I move that the minority report at Section 2, be substituted for the report of the Majority Committee on Election and Right of Suffrage, and that it be adopted as such. My reasons for this are simply these: Section 2, as reported by the Majority Committee provides something that has not been provided by any committee on any question that is before this Convention; that is that the law may be enacted by the Legislature, and before that law shall go into force or effect, it must be submitted to the people to be ratified. I am of the opinion, Mr. Chairman, that the Legislature of the State of Dakota will have as good a right to say who shall vote, as to say who shall be competent to be Supreme Judge or District Judge.

In another particular the restriction of this section is for the purpose to bring the question of extending the right of suffrage to a vote of the people; that is unjust; it is not fair; it is discriminating against the right of the Legislature to pass a law, because in that event the question of extending the right of suffrage to women comes up.

I believe, Mr. Chairman, that the minority report upon this section is the proper one, and am sorry that it is not printed. It simply gives the right to the Legislature to enact a law extending the right of suffrage to any class or classes of citizens, provided, they have the necessary qualifications of age, residence, and citizenship.

The fact is that a majority of the members of the Committee on Elections and Right of Suffrage are against extending the right to women; and this section was proposed by myself; it was afterwards amended by the gentleman from Hughes so as to submit the question to a vote of the people, and in that respect it is just as good as if it were not there at all. I say you have given the right to the Legislature to enact all other laws upon every other subject,—you have given them unlimited right to enact any law they please, but when it comes to give them the right that is now granted by the organic law under which we are living as a Territory, concerning the right of suffrage, then you restrict it. There you say it must be ratified by the people; that is putting a club in the hands of our enemies, with which they will eventually knock in the head this proposition. It is unjust; it is unfair; and I hope that Section 2, as reported by the minority of this Committee, will prevail and be adopted and become a part of the Article on Suffrage.

Upon going to a vote the measure was declared lost.

Mr. Fowler: I desire to offer an amendment to the section, adding after the word "same" in line 22, the provision that at said election each resident of this state who is not an alien shall be allowed to vote upon such proposition.

Mr. McCallum: Do you say each resident? That takes in the children!

Mr. Fowler: Yes; that is right.

Mr. Moody: And the Indians too.

The proposition is seconded.

Call of "Question". "Question".

Mr. Huntley, of Jerauld: I offer the following as an amendment, (filed with the Secretary). Which amendment was duly seconded.

Mr. Brookings: I believe we understand that so we can vote upon it; I call for the question.

Mr. Moody: Is it an amendment to the proposition offered by the gentleman from Pennington?

The Chair: I understand that failed for the want of a second.

The amendment offered by Mr. Huntly, was by a standing vote of thirty-five against, to twenty-five for, declared lost.

Mr. Neill: I move that the section be stricken out entirely. Which motion was duly seconded.

Upon vote of the Committee, the motion of the gentleman from Grant County was lost.

Mr. Maynard: I submit the following as a blank section and move its adoption. (On file with the Secretary.)

Secretary reads Mr. Maynard's proposed section.

Mr. McCallum: There was no such section proposed in the Constitution of two years ago and there is an absence of any such section in the constitutions generally, of the different states, and I think this Committee did intend to propose a clause like this, that all general elections should be biennial; that was the motion,—this report does not show it; the Committee intended that, agreed upon that, and intended to incorporate it in their report; I think that the Chairman suggested that the Secretary put that in there in section three, the section that follows, we agreed to this effect that the elections should be biennial.

Mr. Maynard: It appears to me, Mr. Chairman, that when we provide for the manner in which the Legislature shall be elected, the time must also be provided for the election in which we may elect them; also other state officers, and county officers, town, municipal and schoool officers; if we provide for any election, we simply provide the manner in which they shall be elected; we have not provided for the time of the election; that is all I ask for.

I will say that my reason for submitting that to the Convention in that way, is that I feel the people of the Territory are burdened.

I think I voice the people of this Territory when I say they are burdened with elections today; and that the only point arrived at in this is that we may consolidate the elections and have one election biennially, that the officers be provided for in that way rather than having so many elections,—a November election before the March election. This together with the special elections makes a great burden of taxes beside taking the time of the farmer, and mechanics and laborers generally, four or five days out of the year.

Mr. Brookings: The gentleman who preceded me has so clearly stated the proposition, I do not think it is necessary to spend much time upon it. The cost to this Territory of one election,—I have estimated it. It costs about $28,000 for every election in this Territory. We have to have caucuses. Would it not be much better to have but one election each two years? We would save that immense expense for the election, the time lost, and the time and expense of the caucuses. In many of our towns and counties we have five elections each year; five elections saved would save about $140,000 every year, which would pay your state officers. Then your time going and returning to the election is worth at least half-a-dollar for each voter.

A Member: I would move as an amendment to that resolution, to strike out the words "school."

Mr. Huntley: It seems to me that the present term of three years is long enough for these school officers. It gives the people plenty of opportunity to express themselves with reference to their schools. Now, I knew of a man who ran for the office of school director WHO WAS OPPOSED TO SCHOOLS; I am glad to say that, fortunately, he was not elected. I should certainly lament if any man in the Territory should hold his office for six years who was opposed to schools. I would move to strike out the matter of school townships in the amendment as proposed.

Mr. Owen: I move as a section, "All general elections shall be biennial." (Seconded.) (Here Mr. Owen turned his back to the Chair and addressed his remarks to individual members; as a consequence his words were entirely inaudible to the reporter.)

Mr. Westfall: The Committee has this matter under consideration and it was spoken of several times; I spoke of it a number of times, and was told by persons that other committees had made arrangements for those elections. Yet we did agree—the Committee and myself—upon reporting a section—the one just read, only in addition to it, "That all general elections shall be biennial, and all votes shall be by ballot." That is the way it was agreed on by the Committee, and it was neglected to be reported.

By the Chair: To avoid any further confusion, if there are no further amendments to Section 2, we will consider it adopted. Now then we will take up Section 3, with this section added to it. Are we ready for the substitute of Mr. Owen?

(Read by the Secretary and carried.)

Mr. Brookings: I move you that the one we have just adopted be added right on to section 3.

Mr. Owen: That is only a matter of phraseology.

Mr. Brookings: (resignedly) O, well, I withdraw my motion.

Mr. Owen: I offer as an amendment to Sec. 3: "All votes shall be by ballot—". (The balance of the resolution read and filed with the Secretary.) (Seconded). It has been held by two courts in Chicago and the Supreme Court of one of our states (I am sorry I have not the authorities here to cite to you) that under a constitutional provision that votes shall be by ballot, they cannot be numbered. The case in Chicago was H. Hammer against certain election judges. The judge fined the judges of election ten dollars for numbering the ballots and they took it to the Supreme Court and there it was dropped. They did not want the people of Illinois to know that it was unlawful to number their ballots. In Pennsylvania they have a similar provision, only they say the ballots shall be numbered.

The amendment is carried.

Section 4 is read by the Secretary and adopted by the Committee.

Section 5 the same.

Section is passed without amendments.

Section 6 is read by the Secretary.

Section 7 is read.

Delegate from Lawrence: By the words "under guardianship" in this section I would like to inquire whether it includes those in charge of the overseer of the poor, or the keeper of the county jail?

The Chair: Can the Chairman give information?

The Chairman of Committee: I would just merely say that it is copied from the old Constitution.

Unknown Voices: It is all right then!

Mr. Stone: It seems to me that that explanation is not a very good one, for this reason: If it does include these people, all right. If not, we ought to have something of an amendment. I have been where the political managers have had charge of the poor, and I have seen them come to elections, and vote as the men who had charge of the county poor said they should vote, and I think men under guardianship or under the county charge ought to be prohibited from voting. Does this article include them all right?

Mr. McCallum: I would say that this section is like a good many others. The legal force has not been tested by the Committee, and it is not for it to say in its construciton that it won't admit of certain constructions by law. I think the meaning of the words ought to be decided by the court.

The motion to strike out the word "guardian" is lost.

Section 8 is read.

Mr. Brookings: In line 16 strike out the words "relating to schools."

Now, Mr. Chairman, I wish to say one word in regard to that. It is well known that in the last 10 or 20 years the change made in woman's condition; that instead of being bound down as a slave she has branched out; you will find her in stores; you will find her attending business; you will find her as cashier of banks; you will find her in post offices, and holding national offices, for instance, commissioner of pensions, and the like; that she has by her own efforts arisen to such positions; and in the face of that will we deny her any of these things in this Territory? I am not inclined to think that we will do so, but I am willing that she should stand on the same footing with men in regard to business. If she is a better clerk than my associate, she has the right to receive the election or appointment. We have in this Convention a lady holding employment; if she can hold such a position, why can not she be eligible to any office in the state? We find a lady attorney in the Supreme Court of the United States. If she is fit for an attorney in the Supreme Court of the United States, why is she not fit here? Let us give them a chance. Shall we deny her the right of being elected Register of Deeds, and have some politician totally unfit for the office, hire her to do the work for one-fourth of the compensation? I do not believe that is right. Now let us make this amendment, and give them a chance; I believe it will do no injury. I can see nothing in the Constitution of the United States to restrict it in any way. Certainly, she can hold post offices, and she can hold many offices under the Federal Government.

Woman, instead of being bound down, has got into the first class situations and she is certainly on a level with what are known as old bachelors. She is able to earn just as much in some places as men, and receive due compensation for her services. Sometime I have my doubts about that; but as far as her rights to hold office, and her compensation is concerned, let us put her on the same level with men.

It seems to me that these three words should be stricken out. I am in favor of striking those words out, and then if we think she is not fit for the office, we have the political power, and need not elect her.

The motion is carried.

Section 9.

Mr. Dow: If there is any question that should come before this Convention, it is that of the question of suffrage. The rights of the people is something that we have the right to fight for. We have fought for our rights, and in the absence of doing what I would have done, one of the grandest things ever done, by the coming together here today, then I say vote for the next best thing. I would like to have sufficient of this Convention state about what they believe to be right, sufficient to incorporate in the Constitution the distinction between male and female upon the question of suffrage. I know, Mr. Chairman, that this question is calculated to create a good deal of feeling and desire not to act upon, on the ground of expediency, but we have seen the result of acting upon expediency years ago, and, and now, I believe in this Convention this morning, that there is not a single member present, who does not believe that it is right, that it is just, and that all the principles of righteousness and justice demand it; that we ought to extend to women the same rights of suffrage that we enjoy ourselves. And yet, I might say in the matter why the people of Dakota do not favor it, The very reason is because there is a question of expediency. This is the question, Mr. Chairman, that is thrust at us and in consequence the question has taken a step back.

Especially when the great rebellion broke; it was in favor of the Union. When we talked of the American slavery, that had gnawed the vitals of this nation so long, they said that this was only a question of saving the nation, but we saw that they could not save the Union unless they would first liberate the slaves, and we saw that it was the cause of the rebellion. Now, Mr. Chairman, it is policy, in my opinion, to do what is right. There is a moral force in that question that not only comes into this body, but into that article, and we saw that when the people of this great country were not ready to adopt what they considered was right, that they were called into the war, that cost thousand and thousand of lives and rivers of blood. When these became necessary to save the people, they made the sacrifices.

And now, today, Mr. Chairman, we have one of the grandest and noblest opportunities to engraft into the Constitution equal rights, equal rights of suffrage to extend to all our people, without distinction.

A Member: I call the gentleman to order; there is no question before the house; and he is exceeding the five-minute limit; sit down! (It was moved that the gentleman be given leave to proceed. Carried.)

Mr. Dow: (Continuing.) Mr. Chairman, I thank the Convention very much, for its courtesy, but I will say right here that I will not accept the time, I am very sensitive about using up time in this manner. I am not ready to speak upon this question, and I desire to postpone it until tomorrow, as I have some other very potent argument to offer. As the gentleman has interrupted me and my time is up, I will say no more now.

Mr. Owen: In my county of Kingsbury with its fifteen hundred voters, this proposition came up and was carried by a two-thirds vote. The men and a large majority of the women voted; they placed their ballot box upon the table by the side of the men's box, and they are now on file as a part of the records of the county. Last winter at Bismark the Legislature declared that the women should vote, why isin't it a law in Dakota? Because the reason that was given was because the people didn't demand it.

Mr. Gault: The gentleman speaks about putting a load or a burden upon the women. The general government has given them the privilege of taking up land, homesteads, pre-emptions, etc., she has taxes to pay and why should she not give a thought to how the money is to be used. It is perhaps a merciless thought, but supposing the gentlemen was on the highway and someone came along and relieved him of his pocket book upon the principle that it was a burden to him. I do not believe he would think it was right. Let the people vote upon this question and say whether they think it is best or not; and if it is the voice of the people that she shall be denied the privilege then we will abide by that; but I hope that this Convention will not say that the people shall not have the privilege of expressing themselves upon this question.

Mr. Moody: I desire to offer a substitute upon this section that the right of suffrage shall be extended to any class under the provisions of section 2 of this article, and that during the existence of such privilege, such class shall be eligible to office, the same as any class of electors.

Mr. Campbell: Do you propose to have it submitted separately?

Mr. Moody: No sir. The question of submitting the right of Suffrage is applicable to the former section, and the question is to be submitted by the Legislature directly to the people, to confirm or negative a law passed by it. Now it seems to me that if there is a disposition on the part of the people of this Territory or this coming state, to extend the right of suffrage to that class that is the easiest and simplest mode to adopt. You will have but fifteen days to present these questions to the people of this proposed state. Now I want to say to you that the other side of this proposition is this—if this proposition that is before the Convention is adopted you put before Congress of the United States a Constitution with an entirely new proposition contained in it; have you an idea that the gentlemen who are opposed to this movement will not criticise it? Now I have said to you that our friends in Congress, upon whom we must rely for admission, if at all, have begged that we will bring to them a Constitution with no unusual provisions, that it shall be conservative; it shall be one that our enemies cannot criticise that they shall not be compelled to spend time in defending it. If you undertake to send such a proposition there, when you arrive at Washington instead of reporting back from the committees who act upon admission, it will be buried, and all you will get will be what you could get without a Convention and without all this expense. If you had six months, or even ninety days, to go before the people with this proposition, you could with some plausibility say that these people have adopted this proposition. In this Constitution, republican in form, we have passed such ordinance as will protect the people of the United States, we have guaranteed that they shall not be interferred with, that the property in the United States, any state in the Union, shall not be interferred with; we concede to them all this, but we are not in that condition and I warn you, my fellow citizen that you are treading on dangerous ground—

Mr. Mason: I rise to a point of order, the gentleman has exceeded his time.

Mr. Owen: One man's time is as good as another upon this question and I move that the gentleman's time be extended.

Mr. McCallum: Can we limit a gentleman in a Committee of the Whole to five minutes?

Mr. Kellam: Regarding this question I think there can be no doubt upon this point of order. As a Convention we have adopted certain rules, one of those rules is that a member in debate cannot occupy more than five minutes, but we have adopted no rule where a committee of the whole or a standing committee can enforce that point.

Mr. Owen: I understood that we made that rule when we made Mr. Dow sit down.

Mr. Dow: I sat down without being forced to do so.

A Member: I hope Mr. Moody will be allowed to proceed.

The Chair ruled that the point of order was not well taken.

(Continuation of Mr. Moody's remarks).

I do not want to talk to the members of this Convention, if they do not want to hear me; I do not talk for the purpose of being heard by unwilling ears, nor do I talk for the purpose of talking; but the talk I have made and propose to make in this Convention, is for a purpose, as I trust you, Mr. Chairman, and the gentlemen of this Convention have discovered before now; that I am in dead earnest in this business; that I am not here for an idle purpose.

I am not, Sir, in favor of any propositions that it is not safe to put into this Constitution; we are in that deplorable condition; we are unfortunate in being in that condition, but we suffer today from circumstances that many of you know little about.

The financial interests, the material interests of this Territory, suffer in such a manner that we can scarcely appreciate it. This people do not rule themselves,—their officers in many respects are not responsible to the people. They are governmental officers responsible only to a higher tribunal.

Look at a recent transaction brought to my attention by the highest legal officer in this Territory. You remember that but a short time since, all over this Territory by the friends of the measure it was flaunted in our faces, that we who opposed the corrupt propositions contained in the bill appointing the Capitol Commission, that we should receive a building free from expense; that we who opposed the pernicious measure were standing in the light of the material interests of the Territory. What is the fact?

The bill provided whatever donations that were made in cash should be put into the hands of the Territorial Treasurer; that the donations of property, and the receipts of lands should be used and utilized for the purpose of building the building. Not one dollar, said the friends of the measure, should ever be taken out of the Territorial treasury to build the building. What is the result?

What has been the course of the friends of the measure?

Why! I am told absolutely not one dollar has ever gone into the Territorial treasury; that no such account appears upon his books today; whatever sums were paid in or subscribed or arranged for never found their way into the treasury. I am told further that recently that large amounts of money exceeding $50,000 and perhaps $60,000 or $70,000 have been allowed and warrants have been drawn upon the supposed building fund, and no fund was there to pay them; then what was the result? They concocted a plan by which they seemed to be disposed to deceive the members of the Judiciary to whom they were appealing; they took advantage of the law which they claim is applicable; they put those warrants into the hands of County Treasurers in the different counties that were friendly to them, then they turn those warrants over on the cash due by those counties to the Territorial treasury; thus the funds of the treasury are depleted.

That legal officer of the Territory expressed the decision that these warrants were legal and valid. They will be paid by your taxes, and my taxes and the taxes of every man in the Territory, that has been paid, and ought to go for the legitimate current expenses of the Territory.

You will find if you will examine that a portion of these warrants have gone into the hands of men high in power, and there is a threat, or an implied threat which the persons financially interested in this bill as against your officers that they are not responsible to the people, and you will know, if that decision is sustained as anticipated by the Supreme Court of this Territory how the people of Dakota have been made to pay from fifty to seventy thousand dollars towards that Capitol building, that you did not contract for,—contrary to all claim of law.

Then what is the result for the future?

If that decision is sustained, it follows, as a logical necessity, and legal consequence, that there is no limit to the power of the Commission; they may proceed to expend the full amount necessary in their judgement and discretion to complete the building and any architect will tell you who looks at the picture of the building and the plans and specifications, that two millions and a half, or three millions will be required to finish it, and as a territory you are utterly and totally powerless; the only thing we can do is to protest with our voices, and our press, the verdict of this Convention, that it is trickery and fraud, until the attention of every man in the Territory is brought to it, and the attention of the people of the whole country shall be called to it.

I say to you, Mr. Chairman, and Gentlemen of this Convention, we can not afford to trifle with the duties we are here to perform; I say as I have said before upon this proposition, I can see no more reason why the privilege, (for it is a privilege, and not a right) of casting a ballot should not be extended to women as well as to a man; and if we were satisfied to frame a constitution, with an indedendent subject, I would be found in the foremost rank in the advocacy of that proposition. We can not control ourselves at this time; we are but suppliants at the knees of the national government; we can but get down upon our bended knees, or stand upright like men, and ask, we may indeed in a peacable manner demand admission into the Union of states.

We have got to pass the gauntlet of all criticism of our enemies, powerful here, but still more powerful out of this common-wealth. Let us be prudent; let us be conservative; let us make liberal provision for submitting all these provisions to the people when the time comes. But let us try no new untried experiments now; perhaps we are obliged under the circumstances to do it so far as one proposition is concerned; I yield most gracefully to the inevitable! We will make the best we can of it; but let us go no further than we are absolutely obliged to.

I thank you Mr. Chairman of the Committee, and the gentlemen for the courtesy shown me, although the ruling of the Chairman was undoubtedly right.

Mr. Dow: The remark was made, "Dow sit down!" before, and I did; I can say that I was somewhat confused before, and that I shall probably take as much time as I wish to put into concise form my views upon this subject; I must reply to the gentleman from Lawrence as he has taken the other position; I want to say that I am opposed to this substitute simply because this interdicts equal rights of suffrage being submitted to the people of this Territory. And the arguments are the same; they are that "ANY OTHER TIME"; oh, how often I have heard that argument,—some other time will do but the present time! Now, Mr. Chairman, I want to say that there is no better time than the present time; I want to say also that I agree with the gentleman from Lawrence in his eloquent speech a day or so ago when he so eloquently sustained the suffrage of the common people; our safety he said, rested in the common people. Yes, sir; I say Mr. Chairman, the greater the aggregate the safer we are; and today we are safer if we can advance the number of our votes.

I did not expect to have the amendment that I proposed, carry, but I do expect that this will carry; it will carry if the gentlemen upon the floor who believe in it stand by it, and do not get worn out by arguments against it. It will carry.

I must relate a little incident that happened at the dinner table where I was,—the question of suffrage was being spoken of; said a gentleman, "It reminds me of a little incident when I was in Chicago, going along by a man, and a woman was passing by he said won't you read this ballot for me?" The woman read it and explained it to him and after she had done that she passed on. She said to some other gentlemen, that is the first time I ever thought I wished to exercise the right of suffrage; she said, "I believe I could have done it more intelligently than that man." Another gentleman who was sitting at the table said, "I will guarantee that it was a Democratic vote." (Laughter). I will guarantee it came from a man who was opposed to woman suffrage.

I want to say just this, Mr. Chairman, that I do not consent that the gentleman from Lawrence is any more in favor of the success of this Constitution than I am; nor in its being submitted to the people and in the admission of Dakota into the Union than I am; I am not willing to consent that he stands ahead of me in that respect; but if it must be admitted by taking away the rights of a single citizen of the commonwealth, I say let the Constitution go down and wait until we can carry it in with the rights of the people.

This submitting the doctrine and say a part shall have certain rights, and the balance shall not is something that I never can consent to.

I tell you today, gentlemen, we want a little more of the spirit of the revolutionary times; then, gentlemen, they started in to succeed and we want a little of that sentiment today.

I remember last spring when I was in New Orleans, in the Picture Gallery, a grand collection of pictures, I saw one picture that was entitled "The Minute Man of the Revolution". In there was depicited something of the earnestness which I think ought to be imbued into this Convention. There was a picture of a man who had been called "The Minute Man". He stood in the foreground with his coat partly on, pulling it on; with his plow and his tools left just as he had left them; he stood with a steady gaze into the future. His wife stood at the left with the satchel and some necessaries for him to take along, and the little boy stood braced up watching him, with his gun ready for him to take, and there was the young girl with the powder horn,—all ready to help him in his purpose to strike out and do battle for his country. And there was the old father behind him. There was an earnestness depicited there that ought to be carried out by this Convention. We will stand for the right, and, though the Constitution go down, though we fail to become a state next year or the year after, we will stand by the rights of the people.

Mr. McCallum, of Beadle: Mr. Chairman, I do not wish to talk for the purpose of consuming time, but it seems to me that the substitute offered by the gentleman from Lawrence has only one object in view, and that is to say that the people of Dakota shall not vote upon the question, or put female suffrage in the question as a separate article. That is the long and the short of it. The last clause of his substitute means nothing, absolutely nothing, from this fact, that it is already covered by the section 8 that has been adopted by this Convention by an over-whelming vote. When the proposition came before this Convention to say whether or not we should submit to the people of this proposed state the question of prohibition I voted for it; when the proposition came before this Convention last Saturday to say whether or not the question of minority representation should be so submitted I voted for that; and I am surprised now that they should seek to choke off and forestall the proposition that woman should have her rights as expressed by the votes of the people ratifying or rejecting this Constitution.

The strongest point made by the gentleman from Lawrence was in reference to the difficulties we should meet when we reached the halls of Congress. I say his argument upon that proposition is absolutely of no effect, because Congress, American Congress, is forestalled and inhibited from making any objection to the Constitution of Dakota if it contains the right of woman to vote, by their own act, and I can prove it. Sec. 15 of the amendments to the Constitution of the United States—which we, Mr. Chairman, as loyal American citizens, say is the supreme law of the land, and higher than that we recognize no other—says "That the right of citizens of the United States to vote"—CITIZENS OF THE UNITED STATES. Mr. Chairman; NOT MEN; not the restrictive class who are stronger in muscle and weaker in morality, but "Citizens of the United States"—"To vote shall not be denied or abridged by the United States or any state, and that Congress shall have power to enforce this article by proper legislation". Now, then, let us make a constitution, and if the people this fall, within six weeks, ratify the section 9 as has been reported by the Committee we will go to Congress and Congress will not say one word against us, because Congress cannot. What is it the business of Congress if we say who shall vote? Everything that is not delegated to the general government is reserved to the states themselves; that is as old as the Constitution of the United States, and the gentleman well knows it. So the argument upon that point is of no effect. If we say that woman shall vote, Congress will allow us to come into the Union just as well as though we said, "Men over twenty-one years of age and possessing the other qualifications shall vote."

I am in favor of woman-suffrage; I am in favor of the woman, Mr. Chairman; the woman who comes out to this frontier country of Dakota and takes her homestead and lives there and complies with the law and gains title to that land by a more strict residence than many of the men do, in respect to continuous residence; improving her 160 acres; building her little house and living there—against that character or type of woman there is not a man in this

Convention will dare to utter one single reproach as to her intelligence, her morality, her virtue, her knowledge of business. I am in favor of woman, who is largely represented in the ownership of property, but who, under our laws, has no right to say how she shall be taxed or when she shall be taxed, or how her property shall be disposed of by the men, who make the laws. I am more in favor of woman, who will vote more intelligently upon questions of morality and right—and I say nothing in derogation of men who come to us from foreign shores—than the MAN who comes here and has the right of elective franchise under our laws and votes in our ballot box BEFORE HE CAN READ OUR LANGUAGE!

I had rather meet this and fight it on the floor of this Convention and fight it this fall than to fold my hands and quietly submit until "Uncle Sam" admits us, and then fight for it. (Applause). We are always ready to fight our battles now, in Dakota; and we are always ready to recognize that in questions of national interest and significance the Constitution of the United States is the supreme law of the land; there are no traitors in Dakota! We go there with our rights in our Constitution, and Congress CAN'T object.

I hope that this substitute will be voted down. It is trying to choke off and kill the proposition to let the people of this proposed state say whether or not they will incorporate female suffrage in the Constitution this fall. It is true, Mr, Chairman, that small favors are thankfully received, and large ones in proportion. If we can not enfranchise woman this fall we will get all the political rights for her we can, and all other rights for her we can, and we will get the balance as soon as we can. Depend upon it that this should not be a question of policy; it is a question of right. No man can say that a woman is not a citizen of the United States; no man can say that the right of woman suffrage should be abridged.

The Committee on Seal of State and Coat of Arms has proposed a motto; I voted against it; I am going to vote against it as it stands; the motto as proposed, is "Under God the People Rule". I say that THE PEOPLE RULE, but more than that, I say there are no restrictions and should be no restrictions upon the right of every living, intelligent American citizen to rule, and if you say that the motto shall be "Under God the People Rule," and restrict it to MEN, then I say it is false; false AB INITIO!

Mr. Chairman, whether we get the right of female suffrage in this new state this fall, or whether it is deferred to next fall, or to the next, it is a question that is as sure to come as it is sure that night will succeed day; because the people of this country are worked up in their reading and their information to such an extent that there can be no reasonable objections made to it. If it is a question of "policy", then policy is to give woman the ballot. If it is a question of whether we will get admission, we say to the learned Congress that they have said that no state shall abridge the right of the citizens to vote. Now, Mr. Chairman, we will gain this, if not now, we will gain it before many years in the future, and we will gain it according to the law and the sentiment that,

"Heaven is not reached by a single bound,
    But we build the ladder by which we rise,
From the lowly earth to the vaulted skies,
    And we mount to its summit, round by round."

(Applause).

Mr. More: I do not intend to make a speech. Many of those made are too long, very pleasant indeed to listen to, but too long. I do not concur in the opinion that it will require a campaign of from thirty days to six months to properly present this matter before the people. Now I move very largely among people upon the farms, out of the way of the cities that are supposed to be the centers of learning, and I know that their opinions in regard to this matter are fixed. I dare trust those people; I dare trust them with every issue that it is proposed to submit to them. I see no danger in it at all.

Mr. Haines: Mr. Chairman, I desire to move an amendment by way of a substitute to the amendment offered on this: (Reading). (The same is on file with the Secretary).

Mr. More: We were unable to understand all of it.

Mr. Haines: In explanation of my position, I beg leave to say that inasmuch by the theory of our government, it is intended to put all on an equal footing.

This first section, if passed, will render the second null and void. I think there is a strong desire for this woman suffrage, but this is not the time to apply for it. Do away with so many of these sections, and you will make it less objectionable to the voters, and less objectionable to those who wish to support it. All will know just what they are voting for.

Mr. Brookings: A few moments ago, I thought this matter ought to be laid on the table, but I will not ask but a moment now. I wish to say in regard to the question involved in this matter, that Congress has said to us that we might go ahead and adopt the female suffrage, if we so desired. Congress has absolutely enforced woman suffrage on Utah, and I think they actually passed a law enforcing female suffrage on Utah, thinking that by that means they might wipe out polygamy. I may be in error, but that is my opinion. Congress has given the territories leave to adopt female suffrage at any time. Washington Territory had female suffrage; also Wyoming. I do not think that question would really affect the matter, particularly as Congress have voted female suffrage on Utah. Now, I do not propose to say anything more, only I object to the amendment of the gentleman from Lawrence, for it is a way with lawyers that when they can not beat anything directly they will do it indirectly.

Mr. Moody: Now, I trust that the gentleman from Minnehaha does not intend to impugn to me any underhanded principles. I certainly feel that I treated this Committee with eminent fairness under all the circumstances.

I do not harbor in my mind any suspicion of any members of this Committee, or of this Convention. I have treated them all frankly, and I trust that everybody else has done the same. It is some satisfaction to quote that "A person who holds with suspicion any other man or his methods, is capable of just such acts, as he accuses the other of."

Now, Mr. President, I will say that I opposed the substitute for section 9. We must remember that if adopted by this Committee it is not the act of the House, and I desired to prepare this Committee and prepare a report so that when it was reported back to the House, I might move that that portion of the report which recommends so ridiculous and absurd a proposition as to extend the right of suffrage in this Constitution, should be by the house stricken out. Now, is that frank enough? Can I put it in plainer language. I will now repeat it so that he can understand it. My desire was this: That after the substitute was adopted, that one of the gentlemen who voted in the affirmative, and who would move to receive this section, I would submit the proposition to the Convention, when the Committee arose and reported. All that talk about the beauties of nature, and about the superiority of women, about their charms and about their natural rights—why, I subscribe to it, and go a long ways farther than that. The earliest rememberances I have, and the latest, certainly, lead me to regard that sex with greater reverence than anything on the face of the earth. There is nothing but the Maker of both sexes that is above it.

Why, that is not the practical question before us. The gentlemen have told us by a constitutional argument that Congress is forestalled by their own act from objecting to such a provision. I will have nothing to answer such a proposition. Why, in the 38 states, where did you ever see engrafted in the Constitution or in the laws of the state any such a proposition as is asked for here? It is said that in the Territory of Wyoming female suffrage has existed. So it has for years. What is the result? Not one woman in fifty has been to the polls and voted. The absurd and ridiculous spectacle has been presented to us of women not in a condition to sit in a jury and be confined in a jury room, and other like spectacles. Now, these very things would lead me to give this matter the most careful consideration. It is a practical question even after Congress has consented that Washington Territory, if they choose, may try the experiment. It has been tried in Wyoming but whether it will or will not prove a success, we can not say. am willing to try it by law, I am willing to try it a reasonable length of time, and then when we have tried it, and it works satisfactorily, we can engraft it into our constitutional or organic law. And when asking the United States to take this Territory into the Union, and have gone and rectited the case, the Congress will bury your efforts so deep that you can never call them up again. I am afraid of it.

Mr. Jessup: I want to call the attention of the gentleman to some discrepencies in his remarks. He said that if we were only a state there would be no stronger advocate of woman suffrage than himself, then on top of that statement he says that in his opinion the practice of the right of suffrage to women in the territory of Wyoming has been a marked failure, and further on he casts reproach upon their virtue.

Mr. Moody: The gentleman certainly misunderstood me.

I said that this was an experiment, and I do not take back what I said. I am willing to try the experiment, and would be found an advocate of the trial of that experiment when it becomes a state, but we cannot afford now to make that experiment.

Mr. Jessup: I insist that he said that there would be no stronger advocate of woman suffrage than himself, if we were a state. Then I understood if he is an advocate of woman suffrage that it is right, yet his most potent argument affecting this proposition is that it should not go before Congress. He would restrict us in expressing our principles on woman suffrage and on prohibition, he would restrict us from expressing our sentiments on minority representation. Gentlemen if we are to be restricted from expressing ourselves on any subject we might as well throw this whole thing into the fire.

Mr. Myers: The gentleman from Lawrence seems to be extremely sensitive in regard to his own feelings, I don't know that I am so but I don't like some of his statements in regard to the Capitol Commission. Since his statement regarding the sixty or seventy thousand dollars, I have made inquiry and find some thirty or forty thousand dollars. While I am a member of the Commission I don't approve of all the acts of the Commission by any means, but when I hear a gentleman who is supposed to know about this matter, make such a statement and say it is true, I cannot allow it to pass without contradiction. As I understand the law it does not go into the hands of the Treasurer—

Mr. Moody: Where does it go?

Mr. Myers: When I get there I will answer that question.

Mr. Moody: When you get there give us the name of this party.

Mr. Myers: The money derived out of the property goes into the hands of the Treasurer of the Territory. Now in regard to the one-thousand dollars, the Treasurer of the Commission failed to qualify; and I was anxious for one, and offered a resolution that no further steps be taken until the one-hundred dollars by the City of Bismark, and the three hundred thousand guaranteed by them. I further proposed that a special committee be appointed to receive the money, but I was over-ruled and it passed to the hands of the building committee. In regard to extravagance, I think the gentleman is way off. At the time of the Legislature, last winter, the Commission made their report. I was there and waited through the entire session for the Legislature to investigate the acts of the Commission and to discharge them. I am under bond for four-thousand dollars, if I remember rightly, and there was no way for me to get discharged, simply because the Legislature would not act upon it. I urged several of the members to investigate it and see what had been done, if there had been anything wrong done I wanted to know it as much as any citizen in the Territory; but the Legislature refused to do anything about the matter, so it stands just in that shape. What was done at the last meeting I do not know, it was right in the harvest, my interests at home were such that I could not get away, and I think it was unjust to make any such assertions. I do not approve of all that the Commission did, but when the investigation is made of their report, and the investigation shows that they have squandered the money of the Territory, then is the time to tell the people so and so, and not come here with statements that I don't beleive the Convention will beleive. If they have done anything that they should not have done, hold them responsible on their bond, and not let it be dragged in here. If he had facts that he could show to the Convention that so and so was true, there might be grounds for this assertion, as it is, they are wholly unfounded.

Mr. Moody: As a member of this Convention I respect this gentleman, but he has made several misrepresentations, but at the close of his speech I find that he has confirmed all that I have said. I said that I had the authority from the highest officer in the Territory, and that not one dollar of the funds which was proposed to be raised under the provision of the Capitol Commission Bill, has ever found its way into the territorial treasury.

Mr. Cranmer: I would like to call the gentleman's attention to the question that is before the Convention, we are not interested in this.

Mr. Moody: Your constituents are interested in it, whether you are or not. (Laughter).

Mr. Owen: I rise to a point of order.

Mr. Moody: If I am out of order in answering the gentleman from Spink, then certainly he was out of order. Voices—Yes.

Mr. Moody: Now let me say that I don't desire to speak without consent, or be un-parlimentary, but I dont propose to be choked off by anybody who don't care to hear the truth.

Mr. Cranmer: I don't see that the Capitol Commission has any part in the question now before the Convention.

Mr. McCallum: It seems to me that the gentleman from Lawrence is in the position of making a personal explanation.

Mr. Moody: I have no personal explanation to make, I stated that it was vastly more important that the people ofth is Territory, of this portion of the Territory, to be admitted into the Union before it is haggled over by questions of domestic policy. I had a right to say just what I did say in support of that proposition, as an argument. Now the gentleman from Spink says that I have misrepresented things, that I have made statements that were not true. Let us see: I stated that the information that I received was from the highest officer in the government. I said that I wondered if it had been paid into the treasury.—

Mr. Cranmer: I rise to a point of order, this question is no part of the matter before the Convention.

By the Chair: The gentleman may proceed with the explanation.

Continuation of Mr. Moody's remarks,—

Well I stated to him,—and it was supposed to be, (I said) between sixty and seventy thousand dollars, and how much more, he suggested nobody except those interested are able to know.

Moreover, that gentleman said to me that the Treasurer of the Territory had informed him that he estimated it as sixty thousand dollars, or thereabouts; forty thousand dollars had been registered already and other thousands are outstanding and well known, but not registered.

I said again,—(and now I want to make it good plain English) I said that we were not self-governed and the plan it seemed to me to be to force a judgment contrary to law, as I conceived it to be, because this Commission of which this distinguished gentleman is a member have done what,—they have issued warrants (I understand by this law officer) to the extent of $4,200. to pay their lawyer,—one of them,—who was engaged by them, in order that they might retain their office. Just the same as a county clerk, in the event he was served with a writ of QUO WARRANTO and asked by what authority he held his office, by somebody wanting it, and he pays out of the county funds his lawyer for keeping him in office. This warrant I am told by this law officer when issued to this lawyer of theirs for $4,200.—and the attorney of the Northern Pacific railroad.,—

Mr. Cranmer: Will we have to listen to another personal explanation; I call the gentleman to order; he is out of order!

By the Chairman: The Chair ruled that the gentleman from Lawrence might make a personal explanation.

Mr. Brookings: In committee of the whole you can say just what you please.

A Member: I move we adjourn.

Mr. Beebe: I move the Committee rise and report.

Mr. Moody: That Committee can't rise at this stage of the proceedings with a member upon the floor.

Call of "question", "question", calls of order.

By the Chair: The gentleman from Lawrence has the floor.

Mr. Moody: The question, Mr. Chairman, under consideration was the substitute offered by myself to the section which is before the Convention; that was amended, or attempted to be amended by substituting matter relating to an entirely different subject,—

Calls from different parts of the room, "Question".

Mr. Moody: I ask the Chair, what is the question before the Convention?

The Chair: The substitute of Mr. Haines, of Turner.

Mr. Brookings: I move the Committee rise and lay this matter upon the table.

Calls of "No", "no".

The Chair: Let us have order gentlemen; the gentleman from Lawrence has the floor.

Mr. Moody: I do not intend to occupy the floor when a member desires that I shall be seated. I do not intend any gentleman shall choke me off. Now, sir, I am perfectly willing if the Convention is ready to vote upon this question to yield the floor, if the Committee see fit by its vote to take a position differing from mine,—

Call of "Question", "question".

Mr. Moody: I have done all that I am able to do, I have put this question before the Committee, and before the members of the Convention, and have warned them of what in my judgment will be the inevitable result.

Mr. Fisher: I have not occupied one minute of the time of this Convention; I wish to be heard two or three minutes. It seems to me that we have thrown out a drag net in this Convention, and we are taking into it about as many of the radicalisms as we can carry.

We are going before Congress with a constitution including them all. There is not a Constitution that has ever been ratified that includes any of them.

I am not in favor of this at this time; the gentlemen who favor this measure are favoring it because "it is right and they will have them or nothing"; they remind me of the member of the English Parliment who once used the illustration in a debate relating to the American Revolution. He said the gentlemen reminded him who was in favor of the taxation of the American Colonies, of the wild mad man who resolved he would shear the wolf; wolves, he said, are beasts of the forest, therefore I will shear the wolf, and never stopped to consider the danger; so in this case; it seems the members who advocate these various measures, do not. They say the people of Dakota are ready for these propositions; I will agree they are ready to adopt every one of them. What does that signify? You want to consider all these propositions from the bearing, is Congress ready for them.

Cries of "Yes", "yes".

Mr. Fisher: That is a question you take for granted; you have no evidence that you can place your hand upon to show this is true; for my part, I do not believe it is true.

The substitute which the gentleman from Lawrence has introduced provides that the Legislature shall have the power to pass a law by which we can adopt this question of suffrage. Other gentlemen insist that we should make it the fundamental law; I do not believe in putting in the fundimental laws, propositions which have never been tried anywhere, and which are yet experiments; I am in favor of woman's suffrage, too.

Gentlemen, I feel we should call a halt, and see where we are going.

I came here at the request of the people of my county to frame a Constitution by which we can gain division and admission; I propose to adhere to that idea; I am not going one step beyond, that will jeopardize that question, and the purpose for which I was sent here and to which I have given my oath.

Mr. Neill: I came down here opposed to division and admission; on that basis I introduced a resolution to have this Convention adjourn SINE DIE,—and if these propositions here submitted ever get into the Constitution to be submitted to the people, you will wish we had adjourned SINE DIE.

I am perfectly willing to waive all prejudice that I had at the start; I am willing because I found such an earnest desire for admission of this portion of South Dakota into the Union; I laid it aside in consideration of that earnestness; I do not go back of that.

Mr. Chairman, I am opposed absolutely and decidedly and always until the Territory becomes a government by itself of embodying in our Constitution these propositions herewith submitted.

I am in favor of them, every one of them; I will vote for every one of them when the time comes, at the polls.

I think, gentlemen, we are taking the very course to make all our work here in vain if we decide to embody every one of these propositions into this constitution; we might just as well pack up our grips and go home; I am ready to do it just as soon as they are put into the Constitution; if they are to be submitted at all, let them be submitted outside of the Constitution.

Mr. Kellam: I am not quite so innocent of having used the time of the Convention as some of the other gentlemen of the Convention; and if I thought that the Committee of the Whole would, without further discussion, vote down and settle this proposition before the Committee, I would not say a word; because really I have no hope of changing any vote, or convincing any unconvinced man upon what ought to be done with the resolution before the Committee.

I do believe gentlemen, that if economy of time in this Convention is desirable, we all of us had better omit these campaign speeches, the rehearsal of them,—which we expect to make before the people this fall,—omit them at this time. (Laughter).

There are gentlemen on this floor who can repeat these speeches again with the same enthusiasm that they have given them to us; they will sound stale, flat and unprofitable.

I think that the questions before these committees as they are taken are misapprehended or else occasion has been taken by these gentlemen to ventilate their eloquence upon questions upon which they have been practicing; but I leave the question to be decided by you.

The question is not,—it is absolutely unimportant so far as the consideration of this Committee is concerned what are your personal habits, it is absolutely unimportant what any persons views are with regard to the merits of any proposition,—the question is whether we desire to submit to the people of this Territory these various propositions for their consideration; I am in favor of these; it is no man's business whether I believe in woman suffrage or whether I am against it; it is absolutely to idle purpose for any gentleman to say here whether he is in favor of prohibition, or against it; it is entirely gratuitous it don't make any difference to the people in this Convention, or the people of this Territory what are our personal wishes; we do not pass upon the abstract merits of these propositions; we simply say, do we believe they should be submitted to the people for their votes. I believe in it; I believe we ought as a convention to submit in some way or other these questions; I am not prepared to state my views whether the people want prohibition or not; if they want it they ought to have it; if they do not want it, gentlemen of this Convention, who are in favor of it, do not force it upon them.

So far as these questions go, I am liberal; so far as minority representation is concerned; I am much upon the same platform; I know but very little about it; I will determine for myself when the question comes up whether I think it is so desirable, and whether the people are so divided in their minds that they want to vote upon it.

Now believing that there is no other proper way of submitting to the people of this Territory for an expression of their judgment upon the question of prohibition, I will vote for a separate submission, as a separate proposition. And to this section which we have already adopted which provides for a submission to the people for their expression upon the question as to whether they want woman's suffrage or not, I will vote for the substitute of Judge Moody. I believe that each question is an independent question, each parallel with the other; that each should be fairly squarly submitted to the people.

Mr. Haines: I move that the Committee now arise and report progress and ask leave to sit again. (Carried).

Convention: The President of the Convention took the Chair and the Chairman of the Committee of the Whole thus addressed the President:

Mr. Smith: Mr. President, the Committee of the Whole, having under consideration the report of the Committee on Elections and Right of Suffrage, report progress and ask leave to sit again.

By the President: The question is on the report of the Committee of the Whole. (Adopted).

Mr. Dow: I move that the Convention do now adjourn. (Carried).

The Convention stood adjourned until two o'clock P. M.

Convention.

The President called the Convention to order at 2:10 P. M. in pursuance to adjournment.

By the President: By the rules of the Convention we are now considering the report of the Committee on Elections and Right of Suffrage; what is the pleasure of the Convention?

Mr. Britton: I move that we go into Committee of the Whole for the consideration of the report of the Committee on Elections and Right of Suffrage. (Seconded). Carried.

Committee of the Whole.

Judge Corson was called to the Chair by the President.

By the Chair: Gentlemen, the Committee of the Whole have now under consideration the report of the Committee on Elections and Right of Suffrage; the motion of Mr. Haines I think to substitute a motion for the motion of the gentleman from Lawrence, is the matter now before the Convention.

Mr. Haines: With the consent of my second and the House, I desire to withdraw the amendment that I offered.

By the Chair: If there is no objection, the gentleman will have leave to withdraw; the question now before the House is the substitute of the gentleman from Lawrence; this motion, as I understand it is a substitute for section 9 in the report of the Standing Committee, which report was in favor of submitting to the electors of this Territory at the coming election the question of female suffrage, and this is moved as a substitute for that section.

Mr. Owen: I favor Section 9 as reported by the Committee, and am opposed to the adoption of the substitute, which will displace it, and I think the general result to our extended and interesting discussion this morning is about this: That woman suffrage is probably a good thing for the people of Dakota. And that they will consent to its adoption. That seems to be the talk. This is the proposition; that we shall not put this question before the people now, but run the chances of putting it into the Constitution, which we are to present to Congress this fall or winter, because by so doing if woman's suffrage is in the Constitution, Congress will deny us admission into the Union. Now, the law may be a very good one indeed. We do not deny this, but there is the query. Is it necessary or expedient, or a matter of policy for the first time? It may be passed because the organic law of this Territory provides that. Congress has said to the people, as to all these Territories "prescribe such things with regard to suffrage as you have a mind to." The Legislature of this Territory passed this law last winter. Some of them said that when this organic act was prepared, that the attention of Congress was not called to it, and they did not know that they had left out the word "male". But Wyoming adopted woman suffrage, and Congress never removed this organic law, and it stands there now just as it did then. Why did not Congress remove this law, if they so desired, Now, suppose we shall include this provision in our Constitution and take it to Washington, the members of Congress will look at it, and say "well done; well done". And suppose we do adopt this proposition, and keep it back, because of its effect on Congress, they will say to us, "Oh, you double-dealing rascals. You propose just as soon as you get in, to let women vote, but you hold it back because of the way it might look to outsiders." Now, let us go ahead, and say just what we want. If we do not want woman suffrage, why let us vote it down. I believe this is the way to prepare to go before Congress. Let us do this, and then we will show Congress that we possess one of the elements requisite to a state. Article

9 is reported by the Committee and I ask that it be adopted and reported back to the House.

Mr. Jessup: Mr. Chairman, I have a resolution here which I wish to offer, and it is this:

RESOLVED, That during this session speeches be limited to five minutes, and that no member be allowed to speak more than once on the same proposition, unless by common consent.

Mr. Moody: That motion is out of order at present.

The Chair: I was about to suggest that it could not be acted upon.

Mr. Moody: So much has been said in this House with reference to the act of Congress on this matter. Congress has done precisely what this Committee has done in the way of the report, and which the Committee has adopted already. Congress makes just such provisions as Section 9, only Congress don't go so far as to require the act to be approved by the people. This is perfectly right, and I am perfectly willing that such provision should be put into the Constitution, and be approved, the same as Congress permits to be done in Utah, and if not successful, it can be repealed. This is the correct theory. Congress does not put it into the Organic Act.

Mr. Dow: I am not going to make an argument. I am going to make a statement in regard to the subject before the House. I think there is a misunderstanding. It seemed to be the idea of those who submitted before adjournment that several of these resolutions provided for going into the body of the Constitution. Now, I want to say that all may understand, that there is not a person in the House that is trying to get that into the body of the Constitution; but the resolution was this, the substitute is unanimoulsy recommended by the Committee, and all I want is that you shall understand before you vote that there is a substitute introduced by the gentleman from Lawrence on another subject altogether as a substitute to this resolution, in regard to ladies holding office. Now, don't anybody be blinded by voting down the resolution in such a way. Let us act squarely upon it. I don't ask anything more. I simply want every member on this floor to vote understandingly on that question, but not for the substitute.

Mr. ——————: It seems to me that we are becoming confused on this question. We first adopted Section 2, as the report of the Committee whereby we relegated this matter to the Legislature of the State. Now, this is only a mode of reaching the result. Then we come along here to Section 9 and provide another mode. We must make a selection in this matter, and let us select a proposition that will go before the people, and that will secure the greatest satisfaction in the admission of the new State. I think for my part that there is no danger to be apprehended from the Legislative Assembly, or from the people. I think that the proposition will be carried by an overwhelming majority, if submitted to the people of South Dakota, and that the Legislative Assembly can be elected fairly and squarely, with a good working majority on that proposition. If we relegate this matter to our own assembly, instead of making a national matter of it, we make it a local one, and thus save our champions in the halls of the Union. There is not a member in this House that does not well know that the lower house of Congress is composed largely of Democrats, and I for one would like to know, who in the name of common sense, ever heard of a Democratic Congress supporting woman suffrage or prohibition?

I, for one, Mr. Chairman, do not expect them to support either proposition, nor do I expect any favor at their hands, if we engraft these things into our Constitution. Now, I believe Mr. Dow, from Brown county, says he proposes to let this thing swim or sink upon its merits.

I am as much of an advocate of female suffrage as anybody on this floor, but let us first get admission, and not bother with female suffrage or prohibition.

Mr. Corson: The Committee, as I understand it, have already adopted Sec. 2, it provides that the Legislature may at its first session provide for the submission of this question, the right of suffrage.

Mr. Campbell: I desire to have the question stated so that we can vote upon it.

Secretary reads Section 9.

Mr. Corson: Those of the Convention who are in favor of the substitute by the gentleman from Lawrence, which is to strike out Section 9, in the report of the Standing Committee, say aye—

Mr. Campbell: I would like to inquire what has become of the motion to amend, by Mr. Haines.

Mr. Haines: It is withdrawn.

Mr. Campbell: Upon that question I shall vote against the substitute and then for the adoption of the proposition of the Committee to submit this section to a separate vote. The people of Yankton county met and considered this question—none of the long haired or feeble minded, none of that kind, but some of the strongest men and the best women of the place have signed this petition, and they request this Convention to submit this question to the vote of the people, and in obedience to their wishes I propose to submit this to a separate vote.

Mr. Moody: Is that petition presented here?

Mr. Campbell: Yes.

Mr. Moody: How many names?

Mr. Campbell: 49.

Mr. Moody: How many men and women are there there?

Mr. Campbell: About thirty-five hunderd.

Mr. Moody: How many signed the petition?

Mr. Campbell: About one-hundredth part. I desire to say that I believe that those forty-nine men and women represent a strong sentiment of a large number of people. And while the gentleman's arithmetic may be facetious, I think those who have signed that petition represent a large vote. And with all due deference to my colleague I do not share those sentiments which shall require us to go down on our knees and say, "Please, sir, may we do so and so." I don't wish to put any gunpowder in this, but I desire to say that I do not wish to go down on my knees and say, "Please, sir."

By a Member: I would like to hear the substitute read.

(Read by the Secretary.)

Secretary reads Section 9.

The Section is adopted as reported.

Convention: On motion, the Committee of the Whole arose and the Chairman reported as follows:

Mr. Corson: Mr. President, the Committee of the Whole having had under consideration the report of the Committee on Elections and Right of Suffrage, have made one amendment and request me to report it back and recommend that it be passed as amended.

Mr. Haines: I move that the Convention do not concur in the recommendation of the Committee of the Whole as to Sec.2.

Mr. Owen: I would like to know what we are voting upon.

Mr. Haines: My idea is that we don't want a double headed question. I am willing to vote for one, but not for both. People will say that we have crammed this down their throats, if we submit it in that way. I prefer the proposition of separate submission, for this reason. I believe that a large number of the voters will say that this Section 2 is woman suffrage in disguise, and they cannot vote for any part of the Constitution without voting for that, so that those who are opposed to woman suffrage cannot vote for the Constitution.

Mr. Kanouse: I think we will all agree to cut out Sec. 2, and let Sec. 9 stand.

Mr. Owen: If we adopt Sec. 9, then Sec. 2 becomes void, and if Sec. 9 is lost at the polls this fall, and Sec. 2, is stricken out then male suffrage is all we have got until the Constitution is amended.

Mr. McCallum: I move to amend the gentleman's motion by striking out Section 9, and letting Sec. 2, stand.

Mr. Haines: I accept the amendment.

Mr. McCallum: I don't want this proposition defeated both ways, and I move to let Sec. 2 stand.

Mr. Jessup: Just a word; it strikes me this thing is just this way; you strike out Section 2 and leave Section 9, it stands arranged an amendment in this Constitution so that the first Legislature may submit to a vote of the people. If you leave Section two it alters the case; the Legislature pass the law, the people ratify the law, then you have got a statute on your books; you have it arranged in the Constitution, you submit the amendment to the people, the people ratify it, then, you have a constitutional amendment which we are trying to get. Adopt Section nine and strike out Section two and you have arranged the Constitution so the first Legislature may submit the amendment.

Mr. McCallum: I move to amend the motion of the gentleman from Turner; I move to strike out Section nine and allow Section two to stand.

By the President: Major McCallum moves to amend that the Convention do not concur in the recommendation of the Committee of the Whole as to Section nine; Mr. Haines accepts that;

then I understand the question before the Convention is this: The Committee of the Whole recommend the adoption of Section nine as reported by the Standing Committee; the motion before the Convention is that we do not concur in the recommendation of the Committee of the Whole; is the Convention ready for the question, that the Convention does not concur in the recommendation of the Committee of the Whole so far as Section nine is concerned?

By a standing vote the motion was lost, by vote of 39 nays to 32 ayes.

By the President: The question before the Convention is upon concurring in the report of the Committee of the Whole.

Mr. Kellam: I move that the Convention do not concur in the report of the Committee of the Whole as to the adoption of Section two. Which motion was duly seconded.

Upon call for division, the above motion prevailed by a vote of 39 ayes, to 25 nays.

Mr. Britton: I offer to make a correction in Section eight; some three words I think you will find it necessary to insert there; in that case we make women eligible to office where they are not electors. I understand that the motion is that the Convention do not concur in the recommendation of the Committee as to the amendments proposed to Section eight.

Mr. Brookings: In regard to that matter I have had an opportunity to examine the Constitution of the United States; I find the qualification there as to Representatives of Congress that he must be a person twenty-five years of age, a citizen of the United States, and that is all; of a Senator, a person thirty years of age, a citizen of the United States; I found those were the only qualifications; now it is not inconsistent with this Constitution that we should allow a person to hold office who is not an elector; why, you see already the government appointing women to be post masters at nine thousand dollars a year salary; to be Commissioner of Pensions and various offices; one-half of the clerks in Washington are women; there is no objection to that; if some man is afraid some woman will beat him for office then he had better have this struck out; there is nothing inconsistent in this.

The office of stenographer, you have given to a woman; you find some of the Clerks of Courts are women. What objection is there to electing any woman that the people want, to be Register of Deeds, or any other office, County Township or Territorial?

I am not a stickler for this thing. I believe it is only an act of justice.

Mr. Britton: Not because I am not in favor of women holding office, but there seems to be a contradiction in some of the reports that have been made and adopted; I have reference that they shall be qualified electors of their district, and places of voting; this section would seem to be in conflict with that; I make it for that reason; I voted for the motion of the gentleman from Minnehaha when he brought it up this morning; since looking it over again, I see there is a contradiction; I make this motion for that reason.

Mr. Owen: I ask leave to present another amendment in these words to be added to the section: "Except as otherwise provided in this section". Then there is no conflict.

Mr. Britton: I will withdraw my motion with the consent of the Convention and the second.

The motion by the gentleman from Kingsbury was duly carried.

By the President: The report of the Committee of the Whole is before the Convention.

On motion, it was duly adopted by the Convention.

Mr. Moody: As the Convention has adopted that section, I am desirous that the action of the Convention should at least be consistent with itself; I certainly think this section should be amended. Why, Section nine, if you adopt it you have absolutely disqualified many who are not residents and legal voters of the Territory of Dakota; absolutely disqualified them. You make one of the qualifications a resident six months in this Territory; well now there may be residents in this Territory at that time electors,—who would not be electors under this provision. In other words, this seems to have deen drawn not consistently with Section first, but it aims to take its place. Of course the schedule Committee must provide or this Convention must provide, that either one of these other sections shall be the organic law. They can not both be the organic law because they are inconsistent with each other. Section 1 provides that "Every male person resident of this state, who shall be of the age of twenty-one years and upwards, not otherwise disqualified, belonging to either of the following classes, who shall be a qualified elector under the laws of the Territory of Dakota at the date of the ratification of this Constitution by the people, or who shall have resided in the United States one year, in this State six months, in the County thirty days, and in the election precinct where he offers his vote, ten days".

Then the other section is "Every person residing in this State who shall be of the age of twenty-one years and over, not legally disqualified, who shall have resided in the United States one year, in this state six months, in this county thirty days and in————." It does not say "not otherwise disqualified" but "not legally disqualified". You raise a question at once that might be embarrassing. You don't insert in there a provision that those who are electors under the laws of the Territory shall be qualified electors under this Constitution. There is no alternative term there, but it is imperative, and I think this should go to a committee for the purpose of redrafting it, if it is to be the law of this Convention.

Mr. Jessup: I think the point stated by Judge Moody is well taken. There are terms used in the two articles which are different and may leave room for discrimination and trouble in the decision of the courts, and therefore, I move that this be referred to the Committee on Elections and Right of Suffrage.

Mr. Cranmer: It may be that it is a hard matter for me to understand these sections—

Mr. Owen: I rise to a point of order; there is no motion before the House.

Mr. Jessup: Is not my motion in order?

By the President: It is if there is a second. Mr. Jessup moves that it be referred to the Committee on Elections and Right of Suffrage.

Mr. Cranmer: I can see no reason for this at all. Section 1 provides that every male resident of this State who shall have certain qualifications and who is not otherwise disqualified shall have the right of elective franchise. Well, that is all true. It does not say that certain parties shall not have the right of elective franchise. But every person not disqualified shall have the right of elective franchise. Turn over to Section 9; that does not say that some person may have the right of elective franchise: it simply goes one step further and says that other parties may also. And both sections would be law, and in my opinion there would be no conflict between them at all. The first provides that the male should have the right of franchise under certain restriction. And in the other it provides that females in connection with males shall have the right of franchise.

Mr. Kellam: This should be put into such shape as to make it perfectly plain. Now, it seems to me that the suggestion of Judge Moody is very pertinent and very forcible. It seems to me that it is only necessary to point it out to make it palpable. Now, suppose at the election the people do adopt Section 9; it then of course becomes a part of the Constitution, as does Sec. 1. Now look at the sections; neither can have precedence over the other, but both must be construed so as to be operative. Every male person resident of this State shall have the election franchise. I would like to ask my friend Cranmer if every female shall have the election franchise? No, it means every male. And it means by implication that every female resident shall not have. If we do not say by this clause, by implication, that every female shall not have, then we do not want any positive provision that she shall have. The election franchise is not a national right; it is a legal right with which the electors are invested by the Constitution. It simply gives it to the MALE residents and by implication it does NOT give it to the FEMALE residents. Now then Sec. 9 says "Every person residing in this state who shall be of the age of twenty-one years and over, not legally disqualified, who shall have resided in the United States one year, in this state six months, in this county thirty days and in the election precinct———" and so on. But there is a legal disqualification in the very first line of Section 1; "Every MALE person resident of this state——"—

Mr. Cranmer (interrupting): That is not a disqualification; it is a qualification.

Mr. Kellam: There is such a thing as comprehension of language in its effect! (Great laughter and applause.) Now when this Constitution says "every male" shall have a right to vote it does not mean every FEMALE shall have a right to vote; then we certainly have no necessity for making a constitutional provision of that kind. I do not desire to make any argument upon this.

Mr. McCallum: Let me read Section 1 now with reference to the criticism of my friend from Lawrence. "Every male person resident of this state, who shall be of the age of twenty-one years and upwards, not otherwise disqualified, belonging to either of the following classes, who shall be a qualified elector under the laws of the Territory of Dakota at the date of the ratification of this Constitution——." We could not put that in section 9; that would exclude women. They could not be qualified electors at the date of the ratification of this Constitution; that is evident. It is barely possible that Section 9 needs some revision. I am not the father of it; consequently I don't know but it does need amending, but we could not put in Section 9 the restrictive qualification that they must be qualified electors at the date of the ratification of this Constitution. I would be in favor of referring Sec. 9 to the Committee for revision; the balance of the article should go through.

Mr. Campbell: I think there is a misapprehension both in the mind of my friend from Lawrence and the delegate from Brule. The provisions of Section 9 are identically the same as Section 1, only in better language; precisely the same with the exception that they leave out the word "male" and with the exception that they do not include in the qualification of electors "who shall be a qualified elector under the laws of the Territory of Dakota at the date of the ratification of this Constitution" That clause is not necessary here in this, because by the time the voters come to vote under the Constitution why all electors will be of course qualified electors. The vote upon this proposition is taken at this next election, but the vote under this article will not be taken perhaps for two years; there is where the gentleman is confused. In the schedule there is, very properly, in addition to your qualification, this qualification; that everybody who is a qualified elector under the laws of the Territory shall be entitled to vote. All that is necessary to do in order to carry out his views is now to make a motion to send this to the Committee on Schedule with instructions to report a section for its submission separately to the people, and also provide by a section that if adopted by the people this Section 9 shall take the place of Section 1, which shall then become null and void. And now I move, as an amendment to the motion to refer back to the Committee on Elections and Right of Suffrage, that this section be referred to the Committee on Schedule with instructions to provide a section for its submission separately to the people, and also to provide by section that if adopted it shall take the place of Section 1, which shall then be null and void.

Mr. Jessup: I will accept the amendment.

Mr. Moody: If I correctly understand the gentleman from Yankton, it is that this will not be operative for two years, and therefore, there will be no necessity for the criticism that I made in reference to this section as to qualified electors. I will ask just how he knows it will be two years or not? Now, take Section 2 out of the way, there would be some ground to suspect that that would not take effect.

Mr. Campbell: You have provided that elections shall be biennially. Now, under this first election, it cannot take effect for two years.

Mr. Moody: That is as far as your elections are concerned, but there may be annual elections once a year. You then will have to look at it, and do you undertake to say that the meaning is applicable to this term "not otherwise disqualified" and "any legal disqualification?"

Mr. Campbell: Yes, sir.

Mr. Moody: Well, now, in the first place, explain as to the meaning of those terms. There is a distinction in the terms, and we may be shown cases where that distinction would be very broad. The laws of the Territory, under this Constitution might provide for disqualification. For instance, the words "legally disqualified" might be construed by the courts to mean that it would require a legal adjudication of that question; that it might require for instance that the cause of that disqualification was occasioned by the act of the party. The words "not otherwise disqualified" is a better term, and less susceptible in their judgment to the several objections; among those objections the ones that I have designated. The term "legally disqualified" I say should be qualified, whereas, I believe that this Constitution already provides that certain things shall absolutely disqualify, without the necessity of confusion. Now, it strikes me, while so far as I am concerned I care nothing about it, I do not believe you are bettering it one way or the other as you have got it in here. The Convention seems to have adopted this scheme of putting this thing before the people. We all desire that they should be as binding as possible. If the question is put this way, and those in favor of woman suffrage vote for it, and those opposed vote against it, and if the majority of the votes cast shall be for it, with the word "male" in the first section, then this article shall be stricken out, and to form no part of the Constitution.

Then you will have it, but if you adopt all the other sections, as this Convention has done, the Schedule Committee have no right to strike out one of those sections, and insert another, unless they are instructed to do so. If you leave both these sections in as proposed, then I repeat, they are no good, because one conflicts with the other.

Delegate: I think the people will know when a thing is legal or illegal. It is legal; we did not suppose they were putting anything into the Constitution that is not legal. When it is voted, it becomes legal, and so I think the question is raised by the Chairman of the Schedule Committee, to confuse the common folk here who do not understand the law. That provision as recommended would settle all deficiencies, and make the thing pretty plain to every man.

Mr. Campbell: Do I understand the objection of the gentleman from Lawrence is to the words "legally or otherwise?"

Mr. Moody: Not at all.

Mr. Campbell: I understand, in the opinion of the Committee, that the word "legally" is better than the other. And while on this subject, I will say that the Schedule Committee will not and can not strike anything out. If you say that the Schedule Committee shall submit this thing to a separate vote, it is not the Schedule Committee that does it; it is this Convention. Therefore I ask that my motion be read.

Mr. Moody: Do you propose to substitute Section 9 for Section 8?

Mr. Moody: Was there any change made in the Territorial laws last winter, with reference to the time o residence of legal voters?

Mr. Reed: The time was changed from 3 to 6 months; just double the time.

Mr. Moody: Well, then, that might tend to obviate the first objection. It is possible that in this Constitution, we may have left out some guarantee which the Congress of the United States requires, some contract which the Congress requires, and which should be submitted to the people for a vote. Now, I trust that this Convention has not done so.

For instance, Congress will require undoubtedly that we shall enter into an ordinance, by which the people of this State will agree that the public lands of the United States shall not be taxed; that no union of church or State shall be submitted to or permitted; that the land of persons or citizens of the United States, and that of citizens of this Territory shall not be taxed higher than the citizens of this Territory. They required it in the enabling act that passed the House of our friends, and they will undoubtedly require it of us. Again, they will undoubtedly require some sort of guarantee with reference to public buildings and the public debt of the Territory; and its assessments so far as equitable. There will be an arrangement with reference to the funds left—and that is a chance, the merest chance. Some of them we may overlook, and we may lose the state, because we have given our attention to other things that are of minor importance.

Therefore, I take this opportunity to call the attention of the Convention to-day to the discrepancies between these two sections. I do not think the Convention ought to adopt them both. Now, there is a motion to substitute one for the other, and some question has arisen as to which is the form of the motion. That is all I have.

Member from Brown County: I wish to amend Section 2, line 7, by inserting after the words—"with the"—"the 7th standard parallel" thence west. The reason for this is this: The 7th standard parallel is the north boundry of every county on that line. We are well aware that there is a spirit of indifference along that line, as to what the proceedings may be here. That section of country will represent somewhere like five-thousand votes. Now if we can do away with that spirit of indifference, if we can arouse them to a feeling of interest, either in favor or against this it will tend to help carry this Constitution by that vote or defeat it by that vote. The 46th parallel divides adjacent counties, sections and farms; and I believe gentlemen, that we should take into consideration the wishes of that people when it does not amount to anything in this South Dakota as a whole. Let us arouse that spirit if we can and show them that this Convention is willing to consider something that does not amount to anything to the rest of the Territory. We are willing when you come to the Missouri that you take the 46th parallel, but east of that we ask you to take the 7th standard parallel.

Mr. Dow: I am a little sorry to differ with my colleague on some accounts. I live near the 46th parallel, and I have been instructed by quite a large number of my constituents to stand by the 46th parallel, and have the division made on that line if the Territory is divided, and I trust this Convention will not deviate from it.

Mr. Neill: I am sorry to have to indulge in any opposition concerning the parallel that has been suggested by the gentleman on the floor. I am quite satisfied that he does not understand it, and would not have been allowed to present the argument upon this floor had his constituents known his views on the subject. It may be there is a county looking for a county seat. The 46th parallel is an imaginary line, one of those astronomical lines; if it was laid down there would have to be observation made on every forty acre lot and a stake driven down, in order that the farmers might know in what state their farms are. The 7th standard parallel forms the boundry line north and south of more than a dozen counties and I hope that we will adopt the 7th standard parallel as the line.

Mr. Moody: I have been informed by our Superintendent of Public Instruction, who is himself a practical surveyor, and who has had much to do with the surveys of this Territory, that the 46th parallel is two miles and a half from the 7th standard. I wish we had some absolute information. I should suppose that the gentlemen who had this question in charge would, when this question came before the House present some absolute facts. I can say that I know that this question of boundary was before the Senate Committee and they would not consent to insert the 7th standard parallel, they said it was not a straight line.

Mr. Dow: Is it your opinion that they could legally take any other line than the 46th parallel?

Mr. Moody: I will say with reference to the question, I am not prepared to give a general opinion as to the act directly with reference to that proposition; of course if such is the law, we can not go beyond, that I should be unwilling to make a hasty opinion as to what the law is; I wish to get the sense of the Convention, first.

Mr. Mason: That is what I understand of Ellendale; that is what I have always understood of Ellendale, that it was south of the 46th parallel. Of course that line is not absolutely established and we do not know positively where it is within a few rods; but it could not go but a very short distance from Ellendale either way.

The report of the Surveyor General is 44 degrees 21 minutes 31 seconds north that is conclusive that the 46 parallel is north of the seventh standard parallel; now of course we can not state for certain where that is; I understand it is between five and six miles. It is not as far apart as the eastern boundary of the state; at the western boundary of the State of Minnesota; the two lines will not run exactly parallel with each other as I understand.

Then, too, as to the question of my colleague from Brown. As I understand, the Enabling Act, under which the present Constitution of Iowa was formed, laid down certain boundaries for that state to go by, which that Constitutional Convention ignored and established their own and Congress admitted the State of Iowa under the changed boundaries.

Mr. Moody: Undoubtedly the State Convention would have the authority to establish the boundaries.

It is conceded by public men that the people of the Territory have the right to select such boundaries and area as will insure a good strong substantial state. Beyond that of course it is left with Congress; therefore it may be possible that Congress will not adopt the different boundaries, even if we should adopt a boundary line of the State.

As I understand it it is a jogging boundary on the 7th standard parallel; of course no surveyor who measures from a point of observation on the 45th, or 44th, or 43rd, of north Latitude could ever determine where the 46th degree of Latitude is because no two chainmen or sets of chainmen but what in that distance, if they were chaining independently, would make a considerable discrepancy; therefore we can not rely upon any statement as to the situation of the 46th parallel until we have an observation.

Of course we have given simply our understanding. I have have been informed that the line through there varies from a mile and a half to two miles and a half above that parallel; I think it does differ from a standard parallel. A standard parallel is intended to be measured by a straight line upon the surface of the earth; the 46th Parallel of Latitude of course is a circle of the earth; and they might not agree, they might converge somewhat, or diverge, very naturally.

Mr. Campbell: I desire to read to the Delegates the Act, so far as it relates to this matter.

Whereas: That part of the Territory of Dakota south of the 46th Parallel of Latitude now contains a population sufficient etc.

Then Section two.

Then comes apportionment.

Then Section six. Said Convention after its organization shall proceed to draft a Constitution for that portion of the Territory south of the 46th Parallel, etc.

Now, Mr. President, what I have to say is this; while I would be very desirous to acceed to the wishes of the gentlemen of those counties along the line provided they are unanimous, to take steps that would satisfy their people better, yet it is a great question in my mind under the provisions of this Act, we would be entitled to make a change. There are two sets of opinions on that subject one is that the Constitutional Convention can proceed independently of the Act which calls it and go out side of it, and enact matter contrary to the Act of the Legislature calling it; on that side I understand my learned friend from Lawrence believes that any Constitutional Convention called as we are in the Territory, not in a state, that that constitutional convention is bound by the terms of the act. Now which ever is correct, there is a question, and if we change the boundary from that named in the law, we raise the question; for that reason I shall be compelled to vote against the amendment, and vote for the report of the Committee because it conforms to the act which called the Convention together.

Mr. Fisher: I would say that this matter was gone carefully over in the Committee; we did not determine to take the 46th Parallel without giving it careful and proper consideration. Aside from the provision of the Act, which the gentleman from Yankton read there are other considerations which determined us to adopt the 46th Parallel.

In the first place it is a line that can at any time be determined; it is a line if once destroyed can be re-established. In case of the Standard Parallel there are many objections to it; it is a varying line; varying with every mile.

Another objection too, is the Sisseton Reservation, it is not projected across it; it is very hard to describe it accurately as it should be described in a constitution describing the boundaries.

Furthermore, I understand the objection of the people along the 46th Parallel and the sympathy extended to them here, is the fact that it would cut their farms in two. I apprehend it is generally believed that making the forth-sixth Parallel the line, will make it a public highway, I think that that is where the objection comes from and that every man's farm would be divided by public highway,—that is not the case, it is a line in no sense a highways unless the several counties shall open it; they already have sections lines established and highways established; this would be an immaginary line simply opened through their farms, as the Surveyor General stated in his communication suggesting the posting of monuments at every section line that it crosses. The only objection to it that these farmers can have that it places their possessions in two states. This is no more of an objection than if a man lived on a county line, and owned land in two counties.

I think in adopting a line for a state boundary, we should have something more permanent than a standard parallel.

Mr. Neill: The question as I understand it is an entirely different question.

The Seventh Standard Parallel is as permanent as the 46th. The question of utility on the one hand entirely overbalances the question of sentiment on the other; the idea of having it on the 46th Parallel is purely sentimental; it is entirely contrary to the feeling of every man and every woman in the north portion of the State.

I have just received a letter from Ellendale, strongly urging the division upon the 7th Standard Parallel; the writer says there will be almost unanimous work against the work of the Convention, etc., etc.

There is a question of policy in that; I do not like to introduce this as an argument, but it is upon us as an argument, and we can not afford to ignore it.

There is a respectable vote in those counties south of the proposed line, and we can not afford to lose it. This is just as good an argument as many used in this Convention.

Mr. Frank: I would say one thing about adopting a boundary line; that the description of the boundary line of the proposed State is much easier described by taking the forty-sixth parallel of latitude; then there were other difficulties; among them this Sisseton and Wahpeton Reservations; we were really without facilities to determine this matter, but did the very best we could to bring about a satisfactory result. We had consultation with a number of the members who come from that locality, and of course we found quite a diversity of opinion in regard to the matter; but we became satisfied that the 46th parallel would be most satisfactory to the Convention, and probably to at least a fair portion of those people who are living along that line.

By the Chair: The question is upon the motion of the gentleman from Brown, to amend. The Secretary will read the amendment. (Same was read by the Secretary and filed).

Mr. Lowthian: The Committee that reported this were not all of the opinion that the 46th parallel should be the line, but for the sake of getting the report before the Convention, it was signed by that Committee. I claim that it is just as easy to establish a line on the 7th parallel as it is on the 46th, and as the 46th degree of North Latitude has not been established, and part of the 7th Standard Parallel has been established, we can go that far in using it, and it is just as easy for Congress to establish that line as it would be to establish it on the 46th, and I think it would give better satisfaction to the people along the northern line of the Territory to adopt the 7th Standard than to adopt the 46th. As to be authority for doing so, the people can establish it there if they so elect, although the Legislature said it should be north of that line. In the Enabling Act passed by Congress to admit Iowa a line was laid down, but Iowa did not follow that line established by Congress; they ignored that and provided a line of their own, and they were admitted under that Constitution.

Mr. Alexander: As a resident of one of the counties near the 46th parallel I would say that it is the desire of the people of that county to have the division on the line of the 46th parallel.

Mr. Gault, of McPherson: As a representative of one of those counties—McPherson—that is intended to be a part and parcel of the new State, I am in favor of the amendment, of the gentleman from Brown. Every man along that line will opposse the admission of the new State if the line proposed by the amendment is not adopted. The people of that county are unanimously in favor of that line upon the northern boundary line of those counties.

Mr. Dow: Mr. Chairman, I would say that there are very few men in that county. (Laughter).

Mr. Gault: Mr. President: There are eighteen-hundred people in it, AND A FEW MEN!

By the Chair: The question is on the motion to amend. A rising vote being taken, the Chair announced that there were 36 for and 30 against. The motion to amend therefore prevailed.

Section 3.

Mr. Haines: Mr. President, it occurs to me that there might be no temporary seat of government settled upon by the first vote and I am inclined to think that it should be a plurality of all the votes cast. I move to amend in that respect, line 23.

Mr. Campbell: That is just what it means.

Mr. Haines: Does that mean plurality?

Mr. Campbell: Yes, sir.

Mr. Haines: Well, then I withdraw.

Section 4.

Mr. Fisher: I signed this report with the understanding that I was to bring in an amendment to Section 4; in line 2, after the word "state" I will move to insert the words "at the first general election thereafter".

Mr. Campbell: After WHAT?

Mr. Fisher: After the admission of the Territory. At the first general election after the admission of the Territory.

Mr. Owen: Admission of the STATE, you mean!

Mr. Fisher: Yes, sir.

Mr. Brookings: Mr. Chairman, it seems to me that that section is going to leave the location of the Capitol very indefinite. Suppose at that election no place receives the majority.

A Member: Mr. Fisher is going to offer an amendment to that section.

Mr. Brookings: Oh, well, here is a gentleman who is going to offer a section as an amendment! But I don't see how it is going to be possible to locate the seat of government without leaving it to the Legislature. It would be almost impossible for the State to get land to put a capitol building on and have a little ground, without paying enormous price for it. Really it seems to me you must trust it to the Legislature after the first election. Because one man has stolen everything that the Territory has is no reason why that should be the case in the future; because one governor stole the capitol is no reason that the next Legislature will; and we can not bind ourselves with any such section as that, and I hope the gentleman from Spink will offer a section to cover that.

Mr. Fisher: There is already an amendment to this section as it now stands; I will read the other section after the first is acted upon. The amendment I intend to propose is an additional section.

(Amendment read by the Secretary and filed).

By the President: The question is on the amendment of Mr. Fisher, from Spink.

The amendment prevailed.

Mr. Kanouse: Mr. President, it is hurrying this along.

Mr. Fisher: I would now offer Section 2.

The section is read.

Delegate: Mr. President, I do not understand where the Committee propose to have the government sit between the time a vote is taken and until this question is decided. What are you going to do if it is appealed?

Mr. Stone: I would request that the bill be read as it now stands amended.

By the President: The Secretary will read the bill as it stands amended.

Mr. Jessup: I see that there is no provision made in Section 3. We can imagine what sort of a muss that would get us into. I therefore offer the following amendment to be added at the end of this section:

Provided, that in the event of two or more places receiving the highest and equal number of votes, then in that event, the location of the temporary seat of government shall be determined by lot between them by the Chairman of the State Executive Committee.

It may not be necessary, Mr. Chairman, but in case it was, something ought to be done.

Mr. Fisher: Section 1, as it stands, I will ask the consent of the Convention to strike out the word "annual". The Committee on Elections have recommended bi-ennial elections. Bi-ennial elections will be general elections.

The motion was lost.

By the President: The report as adopted, will be referred to the Committee on Engrossment.

By the President: The report of the Committee on Federal Relations is the next one under consideration.

Delegate: Mr. President, there is no report of the Committee on Federal Relations.

By the President: The report of the Committee on Education.

Mr. Owen: The report of the Committee on Municipal Corporations has not yet been accepted as it appears in the 8th day's proceedings.

By the President: The report of the Committee on Corporations other than Banking or Municipal.

Mr. Ward: Mr. President, we are ready to proceed with that.

Section 1 is read and passed without amendments.

Section 2 is also adopted as it originally stood.

Section 3 is read and passed.

Section 4 is read.

Mr. Moody: Mr. President, it seems to me that Section 3 was passed somewhat hastily. (He reads the section.)

Now, have the Committee carefully considered that? It seems to me that that section will apply to the succession of those corporations that have been created by special charter, because it is inconsistent, as it stands now, with the other portion of this article. I trust that the Committee will carefully consider that section, and defer it until we have had an opportunity to examine it.

Mr. Brookings: The Committee on Corporations other than Banking or Municipal did not seek to be original at all, they took this section word for word from the Pennsylvania Constitution and it is one that has been carefully considered. We have studied the best constitutions and selected from them the Constitution on Corporations, etc.

Mr. Owen: Of course there is great necessity of speeding our work, and it seems to me that it would be better to go along and consider that past, and within the next few days it can be taken up and reconsidered.

Mr. Moody: Where was Section 6 taken from? Ans. From the Pennsylvania Constitution.

Mr. Brookings: I suggest that "of", be changed to "to", Sec. 12.

Mr. Owen: Before we pass Section 12, I would like to ask the Chairman of the Committee having charge of this report, whether he considered the question of telephones and telegraphs, or was it omitted?

By the Chairman: It was omitted intentionally.

Mr. Owen: In the 112th line, after the word corporation, insert the words "by lease or otherwise." I have not considered this, it may not be wise, if I find it is not I will not press it. I recall that in many cases where the people have been protected by a similar provision the law has been evaded. The amendment is adopted.

Section 17 is read by the Secretary, and adopted.

Section 18 is adopted without amendment.

Section 19 is read and placed before the Convention.

Mr. Miller: I move to strike out the word "unjust" in the 130th line.

By a standing vote of 27 to 22, the amendment was adopted.

Section 20 read and adopted by the Convention.

Mr. Owen: I move that the bill as amended be adopted. Which motion prevailed, and the Bill is referred to Committee on Enrollment and Engrossment.

Mr. Booth: I move that when we adjourn, we adjourn until 7:30 this evening.

Which motion prevailed.

Mr. Owen: May I at this time offer a resolution and ask that it be referred to the Committee on Miscellaneous Subjects?

(Resolution on file with the Secretary).

Mr. Fisher: I wish a suspension of the rule; this has just been laid upon my table, and I should like to examine it.

By the President: If there is no objection, such may be the order.

Upon call by the President for the report of the Committee on Public Accounts and Expenditures, the floor was taken by——

Mr. Britton: I do not think any of these reports we have had time to examine, I move we adjourn.

Seconded.

By standing vote of 35 against, to 27 for, the motion was lost.

By the President: The report of the Committee on Public Accounts and Expenditures, is now under consideration by the Convention.

Section one read by the Secretary.

And without amendment is adopted.

Mr. Wright, of Brookings: I move to substitute in lines 11 and 12 the word "majority" in the place of "two- thirds".

Mr. Booth: I hope the amendment will not prevail. I think it is proper and right we have a two-thirds vote to order an appropriation.

Mr. Brookings: It seems to me that is an excellent provision; we want to guard the Treasury, if we want the people to vote for this Constitution. That is one of the best provisions in this Constitution.

Mr. Neill, of Grant: That is a very fine provision for these old counties, but it don't sit very well with certain portions of the new State. It is all right for those who have been provided for, but that system of making appropriations is not justice to the rest of the country; it is not justice that such a gag rule should now be applied.

Mr. Wright, of Brookings: I would say in regard to this, that if this Constitution is adopted and we become a state, we shall be called upon to erect a Capitol and public buildings, and it will be necessary to make appropriations for this, and I think a majority of all the votes should be sufficient.

The amendment was submitted to the Convention and declared lost by a vote of 16 for, and 51 against.

Sections 3 and 4 and 5 were passed without change.

Mr. Ward, of Hughes: I move the reconsideration of Section 2. I think this matter is misunderstood. I believe that a two-thirds vote is exactly against the propostion that the gentlemen who voted for it expect to protect.

Mr. Moody: It strikes me that the Convention does not yet understand this proposition, for they certainly would not confine a new state like this to a vote of that character.

Division called for and the motion to reconsider was lost by a vote of 23 ayes and 42 nays.

By the President: The bill will be sent to the Committee on Arrangement and Phraseology.

It was moved that the Convention adjourn until 7:30 P. M., seconded and carried. Adjourned.

EVENING SESSION.

By the President: The next report is the report of the Committee on Legislative and Congressional Apportionment.

Delegate: Mr. President, I would say that there has been a minority report made, which has not yet been placed before the Convention, and as Mr. Litchenwaller has had charge of that, and as he is now absent, I would ask that the report be deferred.

By the President: What is the probability with regard to his being here?

Delegate: I do not think he will be able to attend the morning session.

The request was granted.

By the President: The report of the Committee on Mines, Mining and Water Rights.

Mr. Fowler: The report has not yet been reported from the printer.

By the President: The report of the Committee on Roads, Bridges and Other Internal Improvements.

Delegate: I believe that the Chairman of that Committee is absent; also that I know no report has been sent in.

Delegate: I would ask that the report of the Committee on County and Township organization be taken up at this time.

By the President: I think it was passed while you were absent.

The Secretary will read the report of the Committee.

Section 1 is read.

Mr. Corson: Mr. President, I move to amend that section by striking out the words "16" and inserting in lieu thereof the word "24".

The motion is carried.

Section 2 is read, and passed without amendment.

Section 3 is read.

Mr. Alexander: I move to amend Section 3 by striking out all of lines 29, 30 and 31.

The motion is lost.

Mr. Alexander: I move to amend by inserting in line 3, the word 6 be striken out and the word "2" be inserted in lieu thereof.

The motion is lost.

Delegate: I move to strike out the word "6" and insert in its stead the words "2 and 4".

The motion is lost.

Section 4 is read and passed without amendment.

Section 5 is passed without amendment.

Delegate: Mr. President, there is a mistake in the latter part of line 4. 4 and 6 years was the way it was reported. I would ask to have it corrected.

By the President: A clerical omission, I understand.

Mr. Brookings: I move to amend the amendment by striking out "4 years," and inserting "two successive terms", or "two terms in succession."

The motion is carried.

Delegate I think, sir, that we should not adopt this section, for this reason: The law under which this Convention assembled provides that all officers provided for in the Constitution shall be elected at this coming election in November. Now, I claim it is not the desire of any member of this Convention that we shall disturb the present county and township officers in any respect, and only elect such officers as district judges, and also members of Congress and the Legislature. And I fear that if this section is left as it is that we will be obliged under the law, that we will be compelled to make provision for the election of all such officers, and now, I would not ask an amendment to affect all such officers and I only deem it necessary that the Legislature may prescribe such other county and township officers as may be necessary, and shall prescribe the duties and compensation of all county and township officers, but if it is left this way, I fear it will be necessary to elect these officers at the coming election. I move to amend the section by providing that it shall be amended in this way. That in each county there shall be elected after the admission of this State into the Union, a clerk, etc.

Mr. Moody: The balance of the Constitution, of course will provide for that. Certainly we don't want to elect all of them now.

Mr. Owen: I would move to strike that section out.

Delegate: That does not provide for county commissioners.

Mr. Owen: I make the motion to strike out that section 5.

Mr. Jessup: I don't believe we care to give these county officers too much lee way. I don't know what experience this Committee or many members of this Convention may have had in regard to rings forming in the county, by having it possible that a certain set of officers control the offices for successive terms, and are permitted the handling of our county affairs, that it is impossible to drive them out of office. This Committee, and I think more than one of them, have had some little experience in that way. Some of them have had a severe case of that. In the county where I live, and it has been organized but a couple of years, you can already see that ring beginning to form, and something ought to be done to effectively wipe out that county ring altogether, and I believe the greatest difficulty is to down this county ring. And I believe every member of this Convention will agree with me in this. Now, this provision makes it impossible for any county officer to hold his office for more than two terms, unless possibly, clerk of the court. I will not discuss this question any further; I will leave it to the Convention, and trust that many will get relief, and the Constitution will be carried by a good round majority.

Mr. Fowler: Now, sir, I favor the proposition to strike out this section. We have so far, as nearly as possible provided for having an election once in every two years. Let us strike out this section, and then if the evil these gentlemen have spoken of, then adopt this resolution. I think it provides that no county officer after his first term, shall hold over, or hold the office any two successive terms, and that will remedy the evil. This section will give us no trouble. It will bring all the elections at one election.

Mr. Owen: I will say that the four-year limitation is all right, but I am in favor of striking out Sec. 5.

The motion is carried and Section 5 is stricken out.

Mr. Fowler: I move to strike out the word "other," in the 14th line; Sec. 6 provided no county officer shall be eligible for more than two consecutive terms.

Mr. Stone: I offer as an amendment that we take exactly the latter part of Sec. 5; it will be before us in a little better language "whose terms of office respectively, shall be two years, except the Clerk of the Court; no person shall be eligible for more than four years in any of the above named offices."

The amendment is adopted.

Mr. Smith: Do the County Commissioners come under that head?

Mr. Moody: The motion made by the gentleman from Turner is an excellent one, and it seeks to limit the parties to two consecutive terms, no matter what the Legislature may fix. No person except the Clerk of Court shall be eligible for re-election after serving two terms.

Mr. Smith: The intention of this section is not to apply to some of the county officers, it is not intended to limit them in any way, only the officers that are named in this article. All those officers except the Clerk of Court shall hold office not more than two terms, to prevent the formation of these county rings and the running of the county by them, the intention was to provide against that, and I think this Convention will carry out the idea to limit those offices to four years. I don't mean to have that apply to Probate Judge, Constable, or those that are provided by the Legislature.

Mr. Coffin: I move that that section be left to stand. I like it, I helped form it, that is, I helped copy it out of another Constitution. (Laughter). I would like to have it in the organic law, you cannot better it, there is no way to misconstrue it, it is just what we want and if you take Judge Moody's amendment I think you will find that it will fill the bill.

A Member: It looks to me that if we strike out Sec. 6, we have no provision for these officers, it says that the Legislature shall provide for them. We had a taste of that last fall, and so far as I am concerned and my constituents, we want all our officers elected, and if Sec. 6 stands I should like to offer an amendment.

Mr. Moody: If it is desired to provide specifically for these officers as is stated, I see no difficulty in so amending Sec. 5 so that it will not be necessary to re-elect any officer until after the first general election, after the State has been admitted into the Union, and that all officers who are now in office shall continue to hold subject to the officers which shall be in office at the time of the admission of the State into the Union, and to hold until their successors qualify, so after this State is admitted into the Union those officers then holding, will continue to hold until the next general election, and then at such general election those offices may be provided for. What I desire is that it should not go into the general election of county officers this fall, and if it is desired to strike out Sec. 5, I now move a reconsideration, so that question may be reconsidered.

A vote is taken and the Sec. 5 is reconsidered.

Mr. Moody. I have been handed what at a first glance seems to be a section which will cover this whole subject:

"At the first general election which shall be held after the admission of Dakota in to the Union, and every two years thereafter, there shall be elected a clerk of the court, sheriff, county auditor, register of deeds, treasurer, surveyor, coroner and superintendent of schools, whose term of office respectively, shall be two years, and except the clerk of the court, no person shall be eligible for more than four years in any of the above named offices."

Mr. Moody: I am inclined to think that the proper construction of this would be that after a person had served two consecutive terms, that he would be thereafter ineligible. We want to give somebody else a chance, after one person had served four years.

I offer this amendment. (Which is on file with Secretary).

Which amendment is duly seconded.

By the President: This is offered as a substitute I understand?

Mr. Dow: I would inquire if this would not necessitate possibly an annual election.

Mr. Moody: One general election and every two years thereafter.

The substitute is adopted in lieu of Section 5.

Section 6 is read.

Mr. Owen: I move that we restore the word "other" in the 14th line.

Which motion being duly seconded, is by vote adopted as the sense of the Convention.

Mr. Stone: I move to amend the amendment. (On file).

By standing vote the amendment is lost, 32 nays to 7 yeas.

Mr. Moody: I call the Convention's attention to this; these are denominated here "County and Township officers". There are some counties that necesarily will not be divided into townships at all; I speak now of counties in my own district in the western part of the Territory; it will be impossible to divide them into townships until there is an extension of the Government Survey through that country.

I move to insert after the word township, "District officers". So that these district officers may be provided for. Also in Section 4.

Which motion prevailed.

Mr. Owen: I would like to know how Section 6 reads now.

Secretary reads that section.

Section 7 is read by the Secretary.

Mr. Fowler: Section 7 seems to be in conflict with a section we adopted before this; in that we provided for ladies holding office; in this report we provide that all persons holding office shall be electors. I move we strike out the word electors.

Mr. Moody: I suggest we insert in line 16 after the word "township" the word "District."

By the President: The Secretary has already done so, assuming that that was your first motion to amend.

Mr Moody: I move we insert the word "district" in line 17 and 18.

Which motion prevailed.

Mr. Fowler: I move to amend this section in conformity with the work already done; so it will read all "County, Township and District Officers shall reside in the county, town or district in which they are elected.'

Which motion prevailed. By a standing vote of 41 ayes and 6 nays.

Mr. Fisher: I move that it be referred to the Committee on Engrossment and Enrollment.

Mr. Moody: We, now that the boys have had their fun, do not want to leave our Constitution in that precarious condition; we would be allowing township officers to be filled with boys; we are going to make them electors; when they are electors then of course they would be entitled to office, under this provision it does not strike me this Convention wants to do so silly a thing, so cheap a thing as that; leave it in such shape when it comes in effect as we hope it will.

Mr. Neill: I move to reconsider the vote by which the amendment to Section 7 was adopted.

Mr. Owen: I don't know but it might be made better; I would not like to have the word elector in there because Superintendent of Schools must then necessarily be a man.

Mr. Moody: She is an elector for that purpose.

Motion to reconsider prevails.

By the President: The question before the Convention is shall the amendment offered by the delegate from Pennington, be adopted?

Mr. Fowler: I simply wanted to test the sincerity of the parties who stood out this morning against the provision, and having done so, I now ask to withdraw my amendment.

Mr. Gault: I move to reconsider the vote by which Sec. 3 was adopted. A gentleman has a motion to make.

Mr. Jessup, of Faulk: I would just like to make a word of explanation for asking that reconsideration. It seems to me a marked injustice to counties having no railroads in them, to provide that the county seat must stay in one place six years. The county seat might be located, and within the next year a railroad come within a few miles; now under this section the people will still have to go off to that little plug of a town to do their business. You have got the wars all settled now and you have the railroads, and you have all voted in favor of this six-year location; but you must see the injustice of it in Campbell, McPherson, Faulk and others of our northwestern counties, where we have no railroads. We could not change the county-seat from the little out-of-the-way place to some railroad town, but must continue for six years, at least, to do our business in that way. I hope you will at least grant us a moment to reconsider this.

A Member: There is no limit to the first petition, the first petition can go in at any time. After such petition and its vote, then after such election it is located for six years.

Mr. Jessup: Suppose that a majority petition, as they may do, and are granted this vote before a railroad comes into the county, and the county-seat is settled before any railroad comes; then the proposition can not again be submitted until after the expiration of six years,—after it has been once submitted. Now, we may possibly live out there for ten years without a railroad, and this might come around in such a manner that it would not affect us in the six years. But we don't care to be put in a place where we can't help ourselves when the railroad does come.

A Member: I second the motion.

Division called for.

By the President: Twenty-one in favor of reconsidering and twenty-one against. The motion is reconsidered and Section 3 is before the Convention.

Mr. Meyers: I move that the word "six" be stricken out and the word "four" inserted in its place. (Seconded).

Mr. Alexander: I move to amend by making it two years.

By the President: Each will need a reconsideration. The question is before the Convention in reference to Section 3. Motion was made that the word "six" be stricken out and that "two" be inserted, which was lost; a motion was then made that "six" be stricken out and "four" inserted; that motion was lost; then the section was adopted, but the motion by which the section was adopted is reconsidered, and is now before the Convention.

Mr. Jessup: Do I understand that we can not amend that section now without reconsidering those votes to amend?

By the President: That is my understanding.

Mr. Jessup: I move to reconsider the vote taken on the motion to strike out "six" and insert "two".

Mr. Stone: I would second the motion the gentleman has just offered.

Division called for.

By the President: 38 for and 31 against, the motion prevails. Now the question before the Convention is this: Shall the word "six" be stricken out and the word "two" inserted?

Mr. Kanouse: I am fully convinced that if this clause of the Constitution is amended as the motion proposes, less than four years will have passed before the gentlemen who are anxious to have it amended now will be very sorry that they succeeded, if they shall succeed. Those of us who have passed through the unfortunate series of county-seat wars that have been waged during the last four years, and possibly more, in the Territory of Dakota, are not at all anxious to let down the bars and open the flood gates again to a repitition of those wars. When you have secured your county-seat at the railway town, you will be very glad to have six years intervene before it can be touched. I make these suggestions as one who has been so situated as to have some experience as many of you have, in these county-seat wars, and I appeal to you, for your own sakes, those who have your county-seats located now without railroads, to make it six years any way, and ten if you could.

Mr. Coffin: I had rather refrain from entering into this discussion, because I was not Chairmain of this Committee, but it seems to be well the Convention should understand why six years were put in there. We conversed with members who had gone through with these county-seat wars, and they wanted a long term. Generally, not less than five years, any way, was the expression. We probably would have made five years the shortest time possible, but that would not correspond with the elections; and after canvassing the thing as fully as we were able to, it seemed to be the almost unanimous desire of those who had gone through these perplexing county-seat wars to make it not less than six years; so that these hatreds would not be engendered in the future as they have been in the past, and to avoid if possible so many of these feuds that have been so bitter and long-standing in our experience with the county-seat question. I sympathize with the gentlemen who want the county-seat moved; I sympathize with everybody who has not the county-seat just where they want it, because I would like to see everybody have their way about everything! If it were possible to make a Constitution so that it would please every man, woman and child in this land, I would say "do it", but I don't believe we can do it.

We were satisfied that this was the lowest time people would be satisfied with, generally. Of course some would like it shorter and others longer.

Mr. Wright, of Brookings: I think if the gentlemen want to organize a strong opposition to this Constitution they can not do it more effectually than to place the county-seats once more upon wheels, as they will be by adopting this proposition to submit every two years a proposition for the re-location of county-seats.

Mr. Britton: I move to amend the amendment by striking out the word "six" and inserting the word "four".

Mr. Jessup: I want to say in answer to the gentleman that ever since I have been in Dakota I have lived between two county-seat wars and I know something about it; and I want to say to the gentlemen who have had experience in this, that we have had some experience in our county already, and the people out there do not want this six-year clause in here, and I want to explain the reason I think two years is more just than four. You provide that a county-seat can not be moved without a two-thirds vote. Now, isn't that a safe-guard? A county-seat isn't on wheels if it requires a two-thirds vote. It seems to me when two-thirds want it moved they ought to have the right to put the county-seat where it would be most convenient.

If it takes two-thirds of the votes to remove it, it seems to me when two-thirds want it removed, it should be removed where somebody lives, outside of the county officers.

Now, if the people out there are interested in this matter, we are willing to run the risk of two-thirds of the people moving the county seat once in every two years, if they want to. We will take the risk for the benefit of having the privilege of putting the county seat where it should go.

Now, there are lots of these little towns, all over the county, and several other counties, will want to remove the county-seats as soon as a railroad comes through there, and these one-horse towns will flock there, and make a good decent town. And when people go to the county-seat to transact their business, they usually have other things to look after at the same time. And I may say, that the people of Edmunds county and the people of several other counties will be satisfied with the justice of the two-year provision in that section, and I hope that the motion which is before the House will prevail.

Mr. Stone: I have lived in a county, where they have county-seat wars, and I do not believe there is anybody here that has not. I know that we did not succeed last fall in moving our county-seat to a central location, and there will be a good many votes in our county against this Constitution if this matter is not remedied some way, and I think there are some counties in this Territory in that position. They have removed the county-seat where it ought not to have been, by scheming. I think there is a chance to get votes against your Constitution, as well as—

Mr. Gregory: Our county-seat is in one corner of the county, but whether this may help us or not, we shall vote for the Constitution, all the same.

By the President: The question is upon the amendment to the amendment to strike out the word "6" and insert the word "4".

Mr. ————: I have a great deal of sympathy for those gentlemen from Faulk, in regard to their county. If Mr. Kanouse has gone out there, and hitched his horse to a post for three years, that was to his interest. I have seen a great deal of these county-seat wars. Now, if two years is too short, make it 4. I believe we ought to do something for this class of counties. It is a great hardship. It is a great hardship for them to go out in the country after coming to Dakota on the railroads.

Delegate: I am somewhat acquainted with the county of Faulk. I live in the boundaries thereof. I think the proposition of "6" is quite a long time, and two is too short a time in most of these counties; therefore, I make it four years, and I think that will be a reasonable time, and I think satisfactory.

Mr. ————: I rise to a point of order. The rules have been established that it would require a motion to reconsider, and has that been done?

By the President: That was an amendment to the section, following the amendment to the amendment.

The amendment is adopted.

By the President: The question before the Convention is that section.

Mr. Dollard: I desire to move to strike out this section.

The motion is seconded.

By the President: It is moved that the section be striken out.

A Member: I have listened to the declaration on this subject, and it has occurred to me that these discussions avoid the main question. Perhaps I am mistaken, I happened to be pretty familiar with the origin of this provision, as engrafted into the

Constitution of the State. I refer to the State of Illinois. I was in a county where this question came up. We had a county-seat election. The people who resided in the town which possessed the county seat, had a population of about 2,000; they cast a vote of about 2,500, and it is said that they even brought their dogs, with ballots in their paws, and such ballots were deposited and counted, and that particular section also succeeded in electing the delegate to the Constitutional Convention, a gentleman who occupies a very prominent position today in judicial circles, and the result of that election was the insertion of a provision of this kind into the Constitution of Illinois, in the interests of the locality from which he was sent, solely for the purpose of retaining the county seat at that point, and previous to this time, although the State of Illinois had a population of two millions and a half, there was no provision in the Constitution denying the people the right to change their county seats, and pass upon their county seats, the same as on any other question by a plurality vote.

Now, I reside in this Territory. I reside within six miles of the county seat of Hutchinson county—a county 24 miles wide and 36 miles long, and my interest is in having this county seat remain where it now is, within six miles of the south line of the county, but it strikes me that if a provision of this kind finds its place in this Constitiution, that only a respectable minority of the people of Hutchinson county will believe that this provision has found its way into the Constitution in their interests, and will be compelled to vote against the Constitution because of that. And this section of the county in which these people reside, happens to have no representative here at the present time. The same is true of the county of Douglas, and the same I believe is true of the county of Charles Mix. Hence, it occures to me that it would be well to leave this section out of the Constitution altogether, and simply insert the provision guaranteeing the right of the people to determine this question, and take it out of the hands of the legislature, so that the people be allowed, whenever their interests require it that they shall have the right to decide that, the same as any other question, by a simple majority vote.

Mr. Moody: Section 7 will give rise to some beautiful confusion, because we want all the ladies to hold all the school offices, therefore, before this report is adopted, I offer the following amendment to Section 7.

"Provided that nothing in this section shall prevent the holding of any school office by any person as provided in article— Section—"

Mr. Owen: I move to amend the amendment, and let the women have a fair chance to hold all county offices.

I desire to amend the amendment offered by the gentleman from Lawrence by striking out the word "school".

By the President: The question is on the amendment offered by Judge Moody as amended by Mr. Owen, of Kingsbury.

(Carried).

Mr. Crose: I move to reconsider the vote.

The motion to reconsider is carried and the amendment of Mr. Moody as amended by Mr. Owen, that the word "school" be stricken out, is lost, the votes standing 43 ayes, 26 nays.

By the President: The question now before the Convention is this—Mr. Moody proposed an amendment to Section 7 providing that nothing in this Section shall prevent the holding of school office by any person as provided in Sec.——, Article.——.

Mr. Moody: It simply makes that section consistent with the article already adopted.

Mr. Owen: I am anxious that our work for one day should be consistent. This morning we struck out the word "school", making women ineligible to all offices in schools. There are a large class of offices to which she is not eligible, and we determined that she should be eligible to all offices except as provided by the Constitution. If there are women capable of holding higher offices they certainly are capable of holding these, if they have a fair show they might be elected as register of deeds.

Mr. Brookings: Now in this matter I am not very particular, but I do despise to offer to women a little school office and nothing else. I am ashamed that men of the new Territory should throw out that little thing. If she cannot vote in school matters, be decent and strike out the whole thing. Don't say that she isn't fit to hold anything but school offices, certainly it seems to be inconsistent. These gentlemen must remember that women occupy a very different sphere from what she used to. I say that there are women in this county who would make better officers, and they would not be elected to that office by gallons of beer and whiskey, they would ask the honest vote of the people, without such means. Do not hold out to them such a thing as that. Do not insult your wives and daughters by holding out to them such a little thing as that.

By a Member: I don't agree with the gentleman from Minnehaha. I think that instead of insulting the ladies when we give her the opportunity to hold these school offices, we are giving her one of the highest offices we can give her. I say that the superintendent of schools is one of the highest offices we can give her.

Mr. Moody: If I had supposed that I should precipitate the woman suffrage question, I would not have offered this amendment. The object is simply to make this section conform to the action heretofore taken by adding this amendment. I don't care whether it is voted out or voted in, so far as I am concerned. Of course, if this Constitution is adopted and it should become a portion, I desire that it should be consistent, one part with another, and if the amendment is not adopted there will be no meaning to it.

The question is voted upon and the amendment to the amendment is lost and the amendment offered by Mr. Moody is carried and referred to the Committee on Engrossment.

By the President: The Committee on Engrossment have reported certain bills as engrossed, they will be referred to the Committee on Phraseology.

A Member: What bills are they?

By the President: Report of the legislative department and the Bill of Rights.

Mr. Moody: They should be denominated not as reports, but as parts of the Constitution.

Convention adjourned until Tuesday morning.

FIFTEENTH DAY.

September 22, 1885.

Convention came to order at 9:10, and the business of the day was open with prayer, by the Rev. A. Jamieson, as follows:

Let us pray.

Gracious God, our Heavenly father, we thank Thee that Thou art a hearer and answerer of prayer. We thank Thee that while Thou hast made us dependent upon Thee for wisdom and strength and grace, that Thou hast always provided an Infinate supply; and Thou hast invited us to come to Thee and obtain all the help and grace that we need.

We draw near this morning, and in the name of our adorable Savior, feeling unworthy in all respects to come, yet confident that they who draw near to Thee in the name of Jesus shall receive the help they need. We pray Father that Thou wilt give us that wisdom which is needful for us for this day's duties and service; that Thou wilt sustain us by Thy grace in every needful purpose and aspiration of our souls; that Thou wilt give us courage, that we may do right under all circumstances, and have the approving smile of God, and our own consciences.

We thank Thee that Thou hast made it possible for us thus to come to Thee, and to have Thy help and wisdom and grace, in the duties required at our hands.

Now Gracious Father, we pray that Thou wilt continue to let Thy blessing rest upon these men who are gathered here charged with these grave responsibilities; grant as they close up their work and go to their homes that they may feel that they have so far as possible, discharged their duties to Thee and to those who have committed these trusts to their charge.

We pray Father, that their work may be such as Thou wilt approve, and will be a blessing to all coming generations.

Hear us in our prayer; forgive us our sins; guide us all in our counsels, and finally bring us home to Heaven, for Jesus' sake,

AMEN.

Reading of the Journal of yesterday,

The Journal was approved.

Communications.

A communication to Judge Moody, from J. A. Pickler, of Faulkton, under date of September 19th, asking woman's suffrage be omitted from the Constitution, read by the Secretary. (On file).

Mr. Kellam: I am requested to present a communication from the Woman's Christian Temperance Union, of Sioux Falls, dated September 21st. Thanking Convention for the use of the Hall. (Read by the Secretary and filed.)

Unfinished Business of Previous Day.

Mr. Owen: Unless the motion which I desire now to make can properly come up at this time I do not know where it could come up. I see by the reading or the record that the Schedule Committee is directed to make provision that if section 9, concerning suffrage, is adopted, that it shall take the place of Section 1. I suppose it would also take the place of Section 2. I move that the Schedule Committee be instructed—

A Member: It was dropped out.

By the President: You had better examine the question first before delaying the Convention.

Mr. Campbell, of Yankton: The Committee on Schedule and Ordinance present the following report. (on file). We also submit another report from the same Committee, but if the Convention took action this morning upon the proposition, this may not be necessary. (on file.)

Mr. Owen: I have three resolutions; one has appeared here before and been referred to two committees, but did not seem to be properly referred to either. I recommend that they be referred to the Committee on Miscellaneous Subjects. (Resolutions were read by the Secretary and placed on file.)

1. Providing that aliens may not hold more than 640 acres of land.

2. Referendum.

3. Anti-pass.

By the President: Referred to the Committtee on Miscellaneous subjects.

Reports of Standing Committees.

By the President: Report of the Committee on Federal Relations.

A Member: No report.

By the President: Report of the Committee on Education and School Lands.

By the Secretary: Not yet printed.

By the President: Report of the Committee on Municipal Corporations.

Mr. Wright of Brookings: The report has not yet come from the printer. It was submitted to the Convention one week ago this morning.

By the President: What will the Convention do in reference to these reports that have not been printed?

Mr. Brookings: As we have a couple of reports here that are printed, I think we had better pass to them.

By the President: We can't pass to them without a suspension of the rules.

Revenue and Finance.

Section 1 read by the Secretary.

Mr. Brookings: I send up the following resolution or amendment.

The resolution provides that the assessment or taxation on property shall never exceed two mills on the per cent. of valuation, etc. The resolution was filed with the Secretary.

Mr. Brookings: I wish to give my reasons for this proposition. Now, if we are looking after the interests of the people, I think it is time, it strikes me, to make some provision of this kind. And I refer you to the present condition of the Territory.

The Legislature last winter appropriated $650,000, the appropriations to last to 1887. It is probably as much as $650,000. Now, when Treasurer McVey turned over the proceeds of the treasury to the new treasurer, he turned over $238,000 in cash, and probably up to that time had paid at least $68,000 of these appropriations, besides the $25,000 for the New Orleans Exposition. And he had paid $7,000 or $8,000 expenses of the Legislature at least. So you will see there was in the treasury to pay this $650,000 at that time at least $300,000. In these appropriations, they made a provision that $175,000 of them should be paid in bonds. Then you have $475,000 to pay this $650,000, to pay these appropriations up to 1887. Deferred tax of 1884, now in the different county treasuries, estimated at $300,000, and by the time this is at hand, the amount in the Territorial treasury will be $850,000 to pay this $650,000; tax due from South Dakota counties, $20,000; besides this $36,000 has been paid back by the government for taking the census. The Dakota railroad tax is increasing every year, and to sum up, you have $895,000 to pay that $650,000. Was not that enough? I say was that not enough? But what does the levying board do? There was no demand for appropriations. There was more than $100,000 left in the treasury after paying the appropriations made by the Legislature last winter. They levy every mill which is three cents on the one hundred and six million dollars, amounting to $380,000. Now, what do you want with that $380,000? Why did they levy it? Why? Governor Pierce did a good many good things last winter. He said at Flandreau on the 4th day of last July that the Legislature of the Territory made $200,000 appropriations more than there was any necessity for. $200,000! He said that the State of Minnesota did worse than that, and claims that they appropriated $400,000 more than there was any need of. Well, that was all right, and a good suggestion to make to the people, and he advised the people in their Constitution to guard against such appropriations.

Will any one tell us why he and his board, (because he appointed them, and must have some influence over them,) why did he levy this $318,000 when there was no demand for one cent of it? I say why? In running through these figures, you will perhaps see the reason for this—Now, is it not about time to put on the brakes? Two mills is enough. The gentleman's motion from Yankton of four mills on the assessed valuation would reach $100,000. It is probably near one hundred millions.

It is probably seventy more to add, and the railroads if you tax them, would be something like thirty more, and this will give you something like ninety million. I shall ask the indulgence of the house for a few minutes in order that we may look at this matter. We would have in the new state about one hundred million dollars worth of property, and certainly enough, if you tax all equally, and levy two mills on the dollar.

To show what the state tax is in some of these other states, I will give you an idea.

In 1880 Wisconsin 1 mill.

Tennessee, 1 mill.

Massachussetts, which we can say in one respect, carries out her laws, are exactly like ours, that assessments shall be on the full value of the property, and although that state owes thirty-three millions of dollars, her state tax is one-third of one mill.

Now, Iowa had to draw on Massachussetts for a portion of her law. It works so much better where you have a law in your Constitution providing for a full valuation. Some of the other states may have less than one mill and a half.

There are a few states that are more than that. For instance, Nevada has about 9 mills. Oregon has 7 mills.

California ,I think has 5, and Texas, I think five.

Now, if you will fix this rate so, there will be no danger of not having money enough at the commencement of the state organization. If those gentlemen at Bismark do not steal this money—and I do not think they will—I say if they levy three mills on the dollar, and if we get our portion of the money that is lying in the treasury, when we come in as a state, we will have money enough to pay our Territorial debt, and then we can bond our state. If your assessments are according to law, when the state is admitted, we will have enough. Our assessment in this state is just one-half of the valuation. We go to our banks, the law says we shall assess them at full value; we assess them at one-fourth. Here at Sioux Falls they are assessed as two million and a half, while the real full valuation is ten million. There is no use of having laws unless we enforce them.

Now, I want to say one more thing. If you want this Constitution to go through with a very large majority, there is no provision that you can put in that will give it as much strength as that. All the other provisions will not strengthen it as much as to say that the Legislature shall not, in any one year squander more than two mills on the valuation of your property. Do that, I say, and you will annihilate the argument that a divided state government is more expensive than a whole. We can say then that we propose to get along with one-half of what this Territory has been getting along with.

Just say right here that the assessment shall not be increased to more than two mills on the dollar on your property in each year, and that will be the strongest argument; say that you are here, not working for the politicians, but that you are here, and you have shown by your works, that you are in the interests of the people.

Mr. Reed: It was not the intention of the Committee to go all through, and arrange the details of the taxation, but simply to fix the maximum only, and the only thing that the Committee had before them was the assessment of those counties south of the 46th parallel for 1885, which amounted in round numbers to 54 million of dollars. One-half of one per cent. would be $275,000. We estimated the annual expense of the new states to be $160,000; for two years, as the Legislature meets between, would be $320,000 So that the matter of getting cash value from the property, it seems impossible. We did not go through with any of the cash values that they have in the older states. According to the returns here it seems that the values vary on the different classes of property It was not the object of the Committee to determine precisely the amount, but solely the maximum. They left this matter open. I have listened to Judge Brookings, and leave the matter undecided.

By the President: What is the object of that measure?

Mr. Brookings: I offered it as I did to bring out the question before the house, now I am asking to change it, to change my amendment from one-half of one per cent. so it will read two mills.

The amendment is adopted

Mr. Brookings: I make my amendment just as it is, the latter part of my amendment that I offered, and I ask that it be read by the Secretary so that no contrary action will be taken.

Section 2 is read by the Secretary.

Mr. Fowler: I move to amend by striking out the word "corporation", in the 27th line, and then strike out the remainder of the section following the word "property" in line 27. From the reading of this section the object seems to have been to provide that county or township assessors shall assess all corporation property as well as other property. Now while that might be practicable so far as local corporations are concerned, it seems to me it would work great disadvantage so far as railroad corporations are concerned; I think it would be better to leave that to the Legislature.

Mr. Coffin: It seems to me, Mr. President, that an amendment would be eminently proper to that section. If railroads are to be taxed by local assessors they will be continually running into inequalities and unjust taxation. If they are local, exclusively in the country, it would be different, but they go all through the state. There should be some means provided by the Legislature by which the entire property of railroads through the state should be taxed, then uniformly distributed through the county. In some states I know that the assessment of railroads is made in that way. I think it is the State Board of Equalization that makes that assessment, and when they make up the taxes all through the state they take the assessment of different counties and make them uniform. If you assess this property by different county assessors there will be trouble, and if there is any disposition on the part of the railroad to be unfair, it throws the door wide open. It has been said that the smaller fish are the easiest caught. I propose to offer an amendment, or make an additional motion that the Legislature shall provide for the uniform assessment of all railroad corporations, railroad property, if it is consistent with the gentleman's motion.

Mr. Reed: I move to allow that section to remain, provided the Legislature shall be allowed to provide for a State Board of Equalization. I offer that amendment.

Mr. Fowler: I don't think that the amendment is germain.

By the President: It is a separate and distinct proposition.

Mr. Campbell: I desire to ask the Chairman of the Committee on Finance from what constitution he has taken that form?

Mr. Reed: It is a combination of several.

Mr. Campbell; Which one mainly?

Mr. Reed: Mainly from Minnesota. I would like to say that the Constitution of Illinois leaves this matter open. The manner of assessing railroads there, seems to work beneficially to the people and to the railroad. They provide for a board of equalization, and auditor and a member of each congressional district. The railroads are required by law to furnish that board with a schedule list of its property and its value.

Mr. Campbell: I want to call attention to this fact—we will probably be subject to more close examination on this part of our work than on any other, and while I have not examined it closely, it seems to me that we should look into it very carefully and see that we make no mistakes in this part of our Constitution. We do not want to leave any loop hole where our enemies can take advantage of us. The members have before them the Constitution of Illinois and Pennsylvania, which are the most precise and accurate of any upon this subject. Minnesota is probably under a greater railroad load, than any state in the Northwest; she is under the heel of the railroads more than any state in the Northwest. And I ask the Convention to carefully scrutinize this matter.

Mr. Reed: The section that we are now considering was not drawn from the Minnesota Form.

Mr. Gehon: It seems to me that if the friends upon this floor wish to sink this Constitution, let them submit it in that form. The State board is to be the board that is to levy the taxes upon the railroads if they are equalized between the counties, I see no reason why the local assessor should not assess the property. That is precisely what the people want.

Mr. Reed: How are the district assessors to get at the rolling stock of a railroad company?

Mr. Gehon: They would have to get at that by a manner of figuring the whole thing; it migh be in their respective districts; the rolling stock and the road bed.

Mr. Moody: I trust, Sir, that this section will be allowed to remain just as it is; it is good enough; I see no difficulty in the Legislature providing one of two ways; either the State Board of Equalization may equalize the track and right of way so that the taxes shall be uniform throughout the entire counties through which the road runs, or I see no difficulty in the Legislature making a provision that all the county assessors that have charge of the township assessors, that is, the superintendents of the assessments for each county, might get together,—I mean in those counties through which the road runs,—and if they have differences in their assessments per mile, could equalize them so they would be alike all the way through; then the local assessors can assess the depots and all other superstructures upon the road in the locality where the assessor is performing his duties.

I would say so far as this section is concerned, I have examined it carefully and it sufficiently guards the interests of the railroad surely, and of the people also.

The Legislature can not well evade this provision which provides that the levy and collection of the taxes shall be in the same manner and by the same persons as provided for all taxes.

Now there might be property situated in such a manner that as A WHOLE, of course it would have a different value than if it was divided up. For instance, one mile of track, or ten miles of track, is worth but little without it forms a part of the whole road. The Legislature may provide some way for the assessors to equalize it; there is this difficulty about it; of course it will take some ingenuity under this section to draft a bill in the Legislature which would cover it, still I think it could be done.

The rolling stock of a railroad company which we have decided is personal property will prove troublesome to one of these local assessors because no doubt it will be rolling through several counties; that, as personal property, will be quite difficult to locate, still at the same time I think that the Legislature may provide that these different local assessors may divide it up among themselves; aggregate the rolling stock, and divide it up.

I think we had better leave the section, as it is; that will satisfy the dear people.

Mr. Brookings: In some respects I have no objection to this section. I live here in Sioux Falls in this county; in this city, every one will admit that a mile of track is worth fifteen times as much as it is out in the country; we shall assess of course the value of the track in the city; who will take the depots; we have a city assessor, he must assess what is in the city like other property. As I say, one mile of track here is worth more than ten miles of track in the country,—

Mr. Moody: Why is it worth more per mile?

Mr. Brookings: It cost more per mile; then we have the depots and the machine shops. I think we people of Sioux Falls need find no fault with this idea.

Mr. Haines: I think what we have heard from the gentleman from Lawrence, has proven a detriment to us if we adopt this section in this form.

If any gentleman knows of any state in the Union which attempts to assess the rolling property and track and other property of railroads, and of telegraph companies and express companies, by local assessors, I would like to know it; I would like very much if they would point it out.

It is preposterous, the idea that local assessors would with any show of equality assess the franchises or rights of the lines, or the property of these various corporations. In the nature of things, it can not be done; it would be a terribly confused and lumbering system.

Now, in the state of Illinois,—(I do not know of any intelligent criticism that has been made upon it) a system of assessment has been enforced, as other states, for instance Iowa, and they assess all the great lines of railroad, telegraph lines, the property of express companies and their franchises, through some central board.

The objection made as I understand, to the corresponding section in the former proposed constitution, by the people, was that it left the way open to taxation upon gross earnings instead of upon the property. I am satisfied the people will be entirely content if we so guard this provision that taxation on gross proceeds be not permitted. That is the general criticism as I understand it to the section as adopted by the former convention.

I am not prepared to say that the language of this amendment is properly guarded, but I should certainly hope to see a proper modification in respect to which Mr. Coffin alluded.

Mr. Campbell: If the amendment does not carry I shall move —and I ask the delegates to look at this. I shall move to amend line 24 by inserting after the word "Legislature" the following words "by general laws". I will then also move to strike out the words "all the property" and insert in lieu thereof these words "So that every individual and corporation shall pay a tax in proportion to the value of his, her or its property". And then I shall move to insert in line 26 after the word "provide" these words— "by general laws". I shall move to add at the end of the section "all such laws shall be uniform in their operation". I hope then we will vote down the amendment.

Mr. Moody: Mr. President, I think that would fix it beyoud all question. Is that Pennsylvania, or Illinois?

Mr. Campbell: I have taken these words from the old section, and that is taken from Pennsylvania.

Mr. Moody: I think that this section is good enough as it stands. I think it treats everybody alike—the people and the corporations; and it is exactly what the people in this part of the territory want; and now why not let them have it? It certainly states the public sentiment, and, so far as I am concerned, that is my desire, to thoroughly and entirely satisfy the people on this subject. I believe in this local assessment. Here is a depot in this county or city; the citizens of Woonsocket would not have the benefit of that depot. Here is a hotel; that hotel is a public institution, used by the public, paid for by the public; depots are used by the public and the public pays for them. In the one case it is built by a hotel corporation, and in the other by the railroad corporation. Why not allow the people to have the benefits of all this? The rule is this—and it is a very proper rule—: Exclusive of all improvements in the way of depots, machine shops and the like of that, the track proper and the right of way is assessed at a uniform rate all through the different counties into which it extends—

A Voice: And the rolling stock.

Mr. Moody: Wait a moment; we will get at the rolling stock when we CATCH it; but the track, or grade, ties, and the iron, the value of the right of way; that is assessed at a uniform rate throughout its entire length. In other words, the entire value is estimated to be so much, depending upon the character of the grade and the number of ties to the mile, and their character; the weight of the iron per foot; the length of time the road has been in operation, and the amount of repairs, and all that. That is fixed into an aggregate sum and that is divided into so many sums as there are miles and then each county is allowed so much, according to the number of miles within the county; and then each locality is allowed to assess the depots and round houses and shops in the locality.

Now, if you put this in operation, what is the result? Why, we find that horses and mules are assessed in this county at one rate and in another county at another rate; and cows, and cattle of all kinds, and so on. What does the state board of equalization do? Why, our Territorial Board of Equalization has a sort of a "funny way" of getting at it. They levy a tax much lower in one county than the other, but they might just as well raise the valuation in some of the counties above the others.

It strikes me that this should be the amendment: Strike out the words: "... ....(inaudible).............. and then it would read like this: "According to the money value of the property, to be ascertained by such rules of appraisement as may be prescribed by the legislature." That is clear enough so that all can understand.

Mr. Haines: The term "assessing and levying a tax—"

Mr. Moody: I have not arrived at that yet. All taxation shall be uniform; How? According to its value in money, to be ascertained by such rules of appraisement—I suppose that is meant to be "assessment", Mr. Reed?

Mr. Reed: Yes, sir.

Mr. Moody: Now, that is to fix the tax so it shall be uniform according to the value of the property in money. Now, that is all right; so this is the purpose and object of it. The clear intent is manifest; so that all the property, of corporations and individuals shall bear an equal proportion of the burdens of taxation. And the legislature shall provide for the assessing and levying of taxes on all property in a uniform manner; that wouid fix it. But I think the section is good enough as it stands.

Mr. Owen: I suppose the gentleman from Lawrence who has last spoken perhaps has more knowledge of the law on this subject, and perhaps his sincere judgment is worth more to the people of Dakota than that of any other man on the floor. I would ask him if it is his sincere judgment that the property, franchise, can be taxed according to the valuation assessed by the local assessor?

Mr. Moody: I would like to know what the gentleman means.

Mr. Owen: Can all property of railroads that ought to be taxed by the local assessor, be properly taxed according to his valuation?

A Member: How about the "franchise"?

Mr. Moody: The franchise is a sort of good-will. Now, you don't assess any property by any such rule. Your proposition is to assess the property of your railroad company, or any other corporation company, and if your proposition is to do that, then this is the way to do it; and this myth that they call a franchise—but it is not exactly a myth, because it has a value that may be worth something and it may be worth nothing, but is always very intangible—and I think when you get the PROPERTY of the corporation you have got about all there is to it; and when you allow the local assessor to assess that, you ought to authorize the legislature to fix some mode by which they can assemble together and equalize it the same as other assessors do. What is the difference whether you equalize by districts or by counties? You find here a system of local assessments; these men meet together as a board of equalization for the entire county, and if a man in one township has assessed all the mules and asses at a much higher figure than some assessor has in another township, why they ought to fix it so it will be equalized.

Mr. Owen: Does the gentleman say that he believes that all the railroad property that ought to be assessed can be properly assessed by the local assessor?

Mr. Moody: I do; I guarantee that I can draw a law under the provisions of that section, so that everything, from a spike to a locomotive, shall be assessed.

Mr. Owen: It seems to me that a railroad which costs in dollars and cents to the corporation, perhaps one million dollars, may be, as soon as it is built, worth two million dollars; because that railroad has had and exercised the power of eminent domain. It has obtained a special right; a franchise, which is commonly taxed. This is a matter that has been very extensively discussed in other states, especially Illinois, and I am satisfied that this is one of the most important questions we have had before this Convention. I move that Section 2 be referred back to the Committee on Revenue and Finance—(reading balance of a quite lengthy motion, which was placed on file).

Mr. Campbell: Allow me to suggest that you add to your amendment "by general and uniform laws".

Mr President: Is that a motion to substitute for the motion of the gentleman from Pennington?

Mr. Owen: It is a motion of reference.

By the President: It is moved that Section 2, with the amendments, be referred back to the Committee on Revenue and Finance. The Secretary will read the motion in full.

By the Secretary: Moved that Section 2 be referred to the Committee on Revenue and Finance with instructions to redraft the section so as to provide, first; for taxation by general and uniform laws of all property according to its cash value; second; to provide some manner for taxing the franchises of corporations other than by the local assessor.

Mr. Williams, of Hand: I would like to move that this section with all the amendments and propositions in relation to it, be referred back without instructions. It seems to me that this is only another way of getting an amendment.

Mr. Owen: By request, if there is no objection I will withdraw the instructions and simply move a reference back. (seconded).

Chair was in doubt as to result of vote and a standing vote was taken.

By the President: 45 for and 9 against; the motion prevails. Section 3 is before the house.

Section 3 is passed,

Section 4 is read.

Mr. Moody: I would like to inquire, if whether Congress adopted this proceeding, and admitted the state, if this section of the Constiution would become a new banking law?

By the President: Does the gentleman form Lawrence ask that this section be referred to the Judiciary Committee?

Mr. Moody: No, sir; I beg that the Chair will pardon me.

Mr. Brookings: This is different from the entire Constitution.

Section 5 is read.

Mr. Moody: I think that is for the benefit of the gentleman from Minnehaha!

Mr. Owen: I move to strike out the section.

Mr. Reed: I hope that that motion will not prevail, to strike out the section.

Mr. Owen: I think we ought to have a poll tax. Now, we have our property protected by law; others of us perhaps have not a single cent; still, we vote, and we have the protection of the laws. Is there any harm? Everybody can pay a poll tax; the question may arise, to be sure, but I think we may leave that to the Legislature.

Mr. Moody: I favor the proposition.

Mr. Reed: I hope that the motion made by the gentleman from Kingsbury will not prevail. A poll tax is not always a direct tax on an individual, and the object is to make it apply to all classes of inhabitants, who have no real estate, and no local habitation or home; these people never pay that tax; consequently, the burden falls upon the others, Now I may have paid my poll tax and while the non-residents have the equal benefits, they pay no poll tax. you never collect a poll tax from a person who has no real estate or local habitation. I think the State of Ohio has abolished this poll tax altogether. I stand up here to defend that article. Let them all bear the burden of taxation.

Mr. Moody: I favor the proposition of the gentleman from Kingsbury, because I think this is the only privilege some of us have of paying taxes! I do not know what I would do without something of that kind in operation! I think perhaps there may be some of these gentlemen on the floor in the same fix, but it is a question of raising revenue, more properly. I think it ought to be left. Of the 50,000 voters in this Territory, how much do you tax each of them?

Delegate: $1.50 apiece.

Mr. Moody: Well, it is so long since I paid any taxes that I didn't know! I think it is very proper—$75,000. Now, they can pay a poll tax, I should think. If they can not, well, let them work it out. The possibility is that we keep the thing running like a snow ball. I am decidedly opposed to any such proposition, because, Mr. Chairman, you and I will soon pass beyond, and we want these young fellows that are coming along after us to do the same as we have done. Now, this may be a selfish purpose, but it is a very proper one.

Mr. Haines: There is another idea about poll tax; that of course, a young man who has no wealth, but who has become of age, and has health, and strength, should be compelled to pay his poll tax, so that the tax will not all fall upon the property owners.

Mr. Reed: Suppose they don't pay.

Mr. Haines: Let them work it out.

Mr. Proudfoot: I would say that I think it is a gross imposition. If it was paid in money and judiciously expended, it would be all right. Through the rural districts, the supervisors are expected to call on them and make them work out their poll tax, in case they do not pay, and then they merely comply with the law. I do not agree with the geatleman from Sully county in regard to the justice of the matter. It is a great injustice. There are a great many people there holding property. It is a great injustice not only to them, but to everybody else. They are obliged to pay money to have the roads fixed.

Mr. Fowler: I would suggest to the gentlemen who upholds this motion to provide, first, that each qualified elector shall be compelled to pay his tax before voting, thereby we shall be enabled to collect the taxes. To compel those people who go to the city election to pay poll tax; if they don't pay they don't vote.

Mr. Moody: If they don't pay their friends do for them!

Mr. Fowler: Yes, when a man runs for office he gets a fellow to pay them and bring them up to vote.

By the President: The question is whether Sec. 5 shall be stricken out.

Mr. Moody: I insist that every man in this house shall vote.

The vote stands 46 for and 33 against, the motion prevails, Sec. 5 is stricken out.

Section 6 is before the Convention.

Mr. Moody: I move to insert between the word state, on the 13th line, the property of the United States and of this state.

By the President: That included public land?

Mr. Moody: I suppose "property" would include it. Ordinance would be more elaborate, and unless an ordinance is adopted Congress may compel the people to get together and agree upon that.

The amendment is adopted.

Mr. McCallum: I didn't hear the substitute to Sec. 7, I would like to have it read.

Mr. Fowler: I beg to amend the amendment by striking out the word "shall" and insert the word "may".

Mr. Proudfoot: I move that "ten-thousand" be stricken out and "five-thousand" be substituted.

Mr. Meyers: I would ask if the word "cemetary" appears in in the substitute?

By the President: I am told that it does.

Mr. Fowler: I move to strike out the word "shall"--and insert the word "may".

Mr. Proudfoot: I move that the word "ten-thousand" be stricken out and the words "five-thousand" be inserted.

Mr. Corson: Do I understand that he wants to strike out "ten-thousand" and insert "five-thousand"? I am opposed to any limitation where the property is used for religious purposes. If a church costs fifty-thousand dollars, if they make a respectable or beautiful church it is an ornament to the town, and it ought not to be taxed for any purpose. We all know that they have no revenue except what is made by voluntary contributions for the support of the church, and to add to the burden which is already upon them, would it seems to me, be wrong in principle. We all know that this property is not to be used for the purpose of providing revenue to the members thereof. It is simply a place where they meet to worship, and it seems to me that the Convention will do a great violation to the people to tax churches. I am opposed to the amendment, and I am opposed to any limitation, so long as that property is used exclusively for that purpose. Of course, if the church is used for any other purpose it should be taxed the same as other property.

Mr. Proudfoot: I feel very sorry to have the gentleman from Lawrence think my motives are ungenerous in taxing churches. I think it is only a matter of justice. He speaks of how churches are supported, that it is by contribution. There are a great many who don't believe in churches, and this is an injustice to those who don't support them. And while I believe in churches and do all I can to support them, I don't want to impose upon those who do not think or believe as I do. I simply say that there are any number of churches who have a large amount of property under the guise of religion, which is a means of revenue to it, and if we exempt five-thousand dollars that is all that is necessary.

Mr. Beebe: As is well known a great many of the societies here are supported largely by contributions from the east; our societies are all new. To a great extent the churches that will be built, will be built largely by money brought in from the eastern states.

There is one society in this town which has certainly more than ten-thousand dollars invested here and if you want to raise this element, of this society against this Constitution, this would be the proper element to adopt into the Constitution; if our purpose is to array that society against us, and court their opposition to this Constitution, this is just the step to take.

Mr. Brookings: It seems to me this is a very unwise provision; when we go back and see the struggle of certain men and communities, whatever you say in other respects it seems to me to attempt to tax churches and schools and Universities, anything of that kind, is really unjust.

Say what you will, no class of people have done more good than these churches, and these universities and public schools.

Why over in Yankton they have built a college and the Territory has not contributed a dollar towards it, and they have built up a college I am proud of; I am proud of our two colleges that have been built up in the same manner in our town, and there are colleges that do not stand near as high. These enterprises are doing more good, and bringing in more capital and people from the outside, than any other one feature within our borders today, and the most unjust thing we can do is to tax them.

Take the Catholic church, they have a good deal of property and when you get down and divest yourselves of all prejudice you can not say but that the different orders of Sisters of Charity, with their schools and convents are a power for good; I do not think that you should tax any of these institutions or any of that property so long as it shall be used for such purposes.

Mr. Dow: I would not wish to be thought of as being against universities, churches, schools, etc. I really believe the most equal distribution of the burden of taxation would be by not exempting anything whatever. I would say that for one I shall oppose this section of the report altogether. I believe that the churches and schools and all property except that belonging to the state ought to be taxed. Some churches are worth hundreds of thousands of dollars and others but little; we equalize this thing by giving them an equal taxation.

I don't see any good reason why we should exempt any of these institutions from taxation. I believe we ought to help build them, and sustain them, and have them bear an equal share of the taxation.

I shall oppose this section.

Mr. Miller: Do I understand the amendment to be to insert "five"? I would amend the amendment by inserting the word "twenty" before the word "five", making it "twenty-five thousand" instead of "five thousand".

By the President: The amendment is to strike out the word "ten" and insert the word "five".

Mr. Owen: I would simply say that I am against "five thousand", and for "ten thousand".

Mr. Stone: The amendment was ten thousand and now five thousand?

The President: No, sir; we have one amendment to the amendment.

Mr. Stone: I would say while I have the floor it seems to me a good deal as it does to the gentleman from Brown; that in order to equalize the burden of taxation we will have to leave no property exempt from taxation.

I again see something in this section with regard to Agricultural and horticultural associations; I think if we pass this section, we will cause a great many buildings which would be of use to remain idle through the year. I happen to have been connected with an agricultural society for some time as a helper; I know property used at that time was of as much use by other persons during the time when the fair was not in session as it was when the fair was; if we exempt that property from taxation it would remain idle for the rest of the year although the buildings are large buildings.

I think this encourages what I believe ought not to be encouraged; putting the property of this country into churches; I think one church building or two for many of these small towns would be far preferable to what is the case in almost every one of them; generally each denomination has a church; that amount of property is of no use; it lies there comparatively idle.

As it is the Catholic has to pay indirectly for the support of the Presbyterian, and the Presbyterian for the Catholic schools and churches, and the honest infidel for all of them. This is unfair and unjust.

Mr. Wright: I am opposed to the taxation of any property used exclusively for school and church purposes; I hope this Convention will not array the opposition of that general element against the Constitution.

Mr. McCallum: Some of the gentlemen have misconstrued the object of this section. This section provides all schools shall be exempt and all charitable institutions shall be exempt and only provides that property held for such purposes exceeding ten thousand dollars in value shall be taxed; and the ten thousand dollars is to be the cash value, of the property.

This only touches one class of property; let it be plainly and distinctly understood it does not touch your schools, your private or public schools, your charitable institutions of whatever kind; but only one class of property.

Mr. Updyke: Is called to the Chair by the President.

Mr. Fowler: I hope this motion shall not prevail; let us not cramp these church and school institutions of the state; encourage them rather; build as many churches and schools as possible.

I care not, Sir, if they plant a half a million in churches and educational institutions upon every section of land in this Territory; I prefer, Sir, to pay my money to churches and schools to educate the young, and train the old as they should be trained, (a great many of them) than to pay my taxes for the support of jails, penitentiaries and asylums; let us encourage these things that lead to a better life, and turn our ways away from crime.

Mr. Edgerton: Does not the adoption of this view array a certain number of the inhabitants against this Constitution? It is from this view I think we ought to encourage the churches and schools in this Territory.

By encouraging these institutions, we induce men to settle in the Territory, and this enhances the value of my property, and yours, and that of every man in the Territory.

I think the value of my property is enhanced when any church or school, Roman Catholic, or what, is established in this Territory, therefore, I say as a question of political economy simply, it is wise for us to encourage, and by a reasonable exemption from taxation, foster and build up these schools and churches in the Territory. It will increase the wealth of the people. Therefore, I am in favor of giving a liberal exemption.

Mr. Ward, of Yankton: The gentleman who offered the substitute came to me with it, and after a hasty examination, I said yes, to the plan of the substitute, supposing that all the interests mentioned in these schools were to be subjected to the same exemptions; I was willing in that way the thing should go before the Convention agreeing to the recommendation he made supposing that they would all stand alike; I shall oppose the matter as it now stands because it singles out one and makes them subject to the taxation when all the others are left to have full exemptions; had the question come up as I suppose, it would have come allowing all to be exempted alike.

There are men upon this floor who can probably remember when taxation, in the State of Connecticut, at least, was levied upon all, for the support of religious institutions but upon the low ground of profit and loss I hardly think we can afford to do that.

Do not understand me, Mr. Chairman, as pleading for churches; that they are unwilling to bear their burdens; they are willing.

The next section before us which provides for the exemption from taxation of lands that were bearing some trees, I think all the ground that is bearing churches and schools is quite as much entitled to exemption from taxation as a bit of ground that is bearing trees.

President Edgerton returned to the chair.

Mr. McCallum: I drew that section; I am not ashamed of it; I don't propose to go back on it. I presented it to the doctor, who was last on the floor, and he looked it over, and it was presented to the Secretary precisely as he saw it, except that the word "exclusively" was stricken out before the word "religious" that did not touch schools at all; it did not touch any charitable institution any further than a religious church may be a charitable institution. The same right of the legislature to exempt schools and horticultural scoieties and the property of agricultural societies remains as it did, precisely.

Mr. Owen: There has no limitation been presented to the Convention here upon horticultural and agricultural societies. They are all poor and just beginning as yet, and yet in time they will grow, and the tendency is to grow larger and larger, and they are absorbing property from the people.. The statistics indicate that corporate property is increasing in the United States at a much greater ratio than property belonging to individuals. I will say that I am a church member and am speaking for some churches, and I am in full sympathy with the churches. I say that all these various corporations do add to the value of our property. What corporation adds to the value of Dakota more than the railroads? We couldn't get along very well without them; we tax them. Look at the history of England and the revulsions and revolutions that have occured there and the attacks made upon those mighty corporations. They became a tremendous burden. Ours will if we exempt them. I submit this proviso and move its adoption. (reading a paper which was placed on file).

Providing property of no church shall be exempt for more than $10,000.

By the President: There has been an amendment proposed, and to that amendment there has been another amendment proposed, and that is the question before the Convention. Shall the word "ten thousand" be stricken out and the word "five thousand" be inserted in lieu thereof? That is the question, and the only question before the Convenion.

Mr. Corson: I move to lay the amendment on the table.

Mr. Updyke: Can you lay the amendment on the table without carrying the entire section with it?

By the President: I think not, without a suspension of the rules.

Mr. Owen: I will ask the gentleman from Lawrence if he will not accept my proviso in lieu of the amendment?

Mr. Corson: I am opposed to anything other than the section as it stands. (applause).

Mr. Reed: I call the attention of the Chair to rule 26, page 6.

By the President: The motion before the Convention is whether the last amendment, that is, to strike out the words "ten thousand" and insert in lieu thereof the words "five thousand", shall be laid upon the table. (carried).

By the President: The question now before the Convention is the amendment proposed by the gentleman from Beadle, Mr. McCallum.

Mr. Corson: I move to lay that upon the table. (carried).

Mr. Owen: Mr. President, I move as an addition to the section, these words: "Provided, that the property of no corporation, association or person except that used————shall be exempt to the amount of ten thousand dollars." (on file) (lost).

Mr. Stone: I am informed that the word "exclusively", in line 16 does not apply to schools, religious, cemetery and charitable purpose, and it seems to me that if it applies in the first case it ought to in the last; and therefore I would move as an amendment that the word "exclusively" be stricken out in line 16.

Mr. Lowthian: I do not understand this to mean anything else than that it does exclude those very things, and I don't see how the gentleman can make anything else out of it.

Mr. Reed: The intention of the Committee was that the word "exclusive" should apply to agricultural, horticultural societies, schools, religious, cemetery, and charitable purposes. All those. That was the sense of the Committee.

Mr. Kellam: If there be any doubt about the qualifying phrase of "exclusively", I suggest that striking out the word "for,' before schools dissipates any doubt about it. I move that the word "for" be stricken out. (carried).

Mr. Gehon: I move to strike out the word "two" and add the word "three" in the 14th line. (lost).

Mr. Fisher: I move that the Section 7, as it now stands, be adopted. (carried).

Section 8.

Mr. Conniff: I move that the word "shall" in line 21, following "legislature" be stricken out and the word "may" inserted in lieu thereof: (division called for; carried).

Mr. Fowler: It strikes me that "agricultural" is in no sense a charitable or religious institution, and it also impresses me further that this Section 8 is a provision intended to evade the general provisions of this Constitution. In other words, if you please, it is a proposition to exempt from taxation a certain class of citizens and property and thereby to make an unjust discrimination. Therefore, I move you, Sir, to strike out Section 8. (lost).

NOTE—No mention is made of Sections 9 and 10. My record closes with Section 8.—GOODNER.

Section 11 is read.

Mr. Moody: I offer the following as a substitute for this section.

No indebtedness shall be incurred, or extended by the State, and no warrants shall be drawn upon the State Treasury except in pursuance of appropriations for a specific purpose first made. The Legislature shall provide by suitable enactment for carrying this section into effect. (On file with the Secretary.)

The motion is adopted.

Section 12 is read.

Mr. Owen: I move, after the word "taxation" in the 31st line, to add "special assessments". If I get a second to that, I will state the end of the motion.

The motion is seconded.

Mr. Owen: In the State of Illinois, there has been a great deal of discussion on this subject, and they have made that provision. They have inserted these words "special assessments". It won't do any hurt.

By the President: So that it will then read "by special taxation or by special assessments of contiguous property".

Mr. Owen: Yes, sir.

By the President: "Assessments of contiguous property."

Mr. Owen: The words should be inserted after the words "property" "by special taxation of contiguous property." or "special assessments."

The motion is lost.

Mr. Moore: I don't think the amendment was properly understood.

By the President: The Secretary will read the next section.

Section 13 was read by the Secretary.

Mr. Owen: The section is to make local improvements by special assessment of contiguous property or special taxation.

Bv the President: Add the words "special assessment".

Mr. Owen: There before these words "meeting in"—

Mr. Moody: Between the words "by special" add your words "by special assessment and special taxation," because you will have to assess it before you can tax it.

Mr. Owen: I will move that the words "special assessments" be inserted after the word "by". Local improvements by special assessment and special taxation.

Mr. Moody: Special assessment or special taxation?

Division on the vote is called for.

By the President: 21 votes for and 32 against; so the amendment is lost.

Mr. Moody: I want to call the attention of the Convention to Section 8, and in doing so, I move that the word "thousand" in the 24th line be stricken out and the word "hundred" inserted.

Now, sir, I don't know upon what principle of equity or justice, and in the face of the Constitution this is included, but we adopt that leave shall be granted to the Legislature by exempting from taxation for an unlimited number of years, (which may be 100 years or 1000 years), 40 acres of land with improvements thereon to the extent of $1,000, by a man planting timber. He does it for his own individual benefit and profit. A man who buys timber, and make a cultivated farm afterwards where the timber existed, does it for his own individual profit, and I don't see any reason why these people who live in a country 160 miles long by 60 miles wide should be compelled to pay taxes, and those who happen to live on the prairie should be exempted from taxation. It is unequal and unjust. I do not see why they should have to pay taxes on their property, and a man who has planted a grove of trees should be exempted. I say it is wholly unjust. Now, we have had such a law as that in this Territory in operation, and by unanimous consent as it existed, that law was repealed. There was no reason—no reason at all—why persons should be thus exempted from taxation. Why, it says to encourage the planting of timber, the Legislature shall, by general law, or may, if the word "shall" is changed, exempt for a term of years, not to exceed one fourth of each quarter section of land. Because a man has planted a few trees, the Legislature exempts this property. Were it not for this provision how many acres of timber would these people plant? Not one quarter of an acre. And it leaves it to the Legislature to provide that where two trees are planted, or a half dozen trees on a quarter of an acre, or on one acre that entire quarter section, the entire 40 acres, and the improvements to the extent of $1,000, shall be exempt. Why, you leave it in the power of the Legislature to deprive the coming state of a large amount of revenue, and it is wholly unjust; it works inequitably, and does not extend to any other portion of the Territory. I do not think that all that should be exempted is simply this: The cost of planting timber; it may be $100; and exempt this, if you exempt anything, and nothing more.

Delegate: Mr. President, I think this section should be stricken out entirely. A man will put nothing on that quarter section that is not exempt.

Mr. ————: I oppose the movement to strike out. It is going to be a long time before a man can receive any resource or benefit from that timber, and every man knows that every acre planted in timber, benefits not only himself but the entire country. And inasmuch as it is impossible to derive any benefit or cultivate that land that is in timber to advantage, with anything else, there should be some means provided to encourage farmers for planting timber on their farms. I have seen in Iowa that when this provision is engrafted, it will encourage the farmers, and that a large number of them that otherwise would not have planted a single tree, will plant 5, 10 and 20 acres of timber, and all of us that have lived on the prairies know the advantage of timber. Now, if the striking out of that section will hinder farmers from planting trees I do not believe the gentleman would be in favor of striking it out—

Mr. Owen: I would rise to a point of order. There was another question before the house.

By the President: The amendment of the gentleman from Lawrence is to strike out the word "one thousand" and insert in lieu hereof the word "one hundred".

Mr. Owen: That has been adopted.

By the President: I believe not.

Mr. Miller: I am in favor of letting the section stand as it is, I believe that the Legislature will be able to devise some means that is just.

Mr. Proudfoot: I know something about tree planting, I have done something in that line myself. I think the gentleman from Lawrence is right, that farmers have no right to come here and ask to have their taxes set aside. As to tree planting on the prairie, we have a law which provides for that, for the planting of of trees on the sections, and every farm adjoining them is benefitted by the wood growing on them, I say it is a pity to exempt our property, let us as farmers pay our taxes.

Mr. McCallum: I think the criticism of the gentleman from Lawrence was correct, and I move to amend his amendment in line 22 by inserting "a" after the word "of", and add to the section, at its close this language: "To the extent of one-thousand dollars in value, for the term of five years." and after that section,—"there shall be, at least, five acres of trees planted and growing to entitle the owner to this exemption." I think this will obviate the difficulty of the gentleman from Lawrence, and still provide for the planting of trees. The class of trees referred to by my friend from Clark, are I think numerous. But the planting of trees and the growing of trees is not a curse to Dakota.

A Member: This section as I understand it, is a most unjust discrimiantion . There are members here who advocate the taxing of churches, and then in the next breath they ask to be exempt from taxation. I don't want these trees exempt from taxation; I am receiving benefit enough from my trees to enable me to pay taxation.

Mr. Frank: I am in favor of striking out this section. In my locality there are people who would like to come in for their portion and I shall be compelled to ask the people of this Convention to be just, and give us the benefit of this exemption also.

Mr. Dow: I will say but a word on this subject, but two to one if we go into exemptions we shall not know where to stop, for one I believe in being consistent, and if we are to be exempt from taxes for the purpose of encouraging tree culture, I am in favor of exempting from taxation lands in this country that are covered with trees; but it seems to me, as I remarked before, that it would equalize everything if we made no exemptions. I trust that you will not misunderstand me and take it that I am opposed to the encouragement of churches and schools.

Mr. Owen: I raise the question of point of order; this discussion is all out of place. If the gentleman desired to draw the attention of the Convention to the question he should have moved its reconsideration. He made no such motion, and until that is made it is all out of place.

By the President: There was no vote passed by this Convention upon this question adopting this amendment, it was passed informally by the Chair; if it had been formally voted upon the point of order would be well taken.

Mr. Frank: I desire to be excused from further attendance upon this Convention.

Mr. Fowler: I desire to be excused from further attendance upon this Convention, as I must go home.

A Member: I move we adjourn.

Mr. Dow: I don't wish to occpuy the floor but a moment, but I don't like to be cried down when I am in order. I simply say that I wish to be consistent; I was afraid if we exempted churches and school property we would have to make other exemptions. And I want to say that we are upon a subject that has no end, we shall not know where to stop.

Mr. Moore: I move to strike out this section, for the reason that I believe that it is best now to shut the gate.

Motion to adjourn is lost.

Mr. Smith; I don't agree with these gentlemen who seem to think that a few cranks can take possession of the legislative hall and enact special laws for special privileges which they are not willing to grant us here. It seems to me, here today, that there is no justice in amending this special privilege which may have a tendency to develop this country. They seem to think that we have no right to this. I would like to call the attention of the gentlemen to the special law granting special privileges to all kinds of manufactories, is it not one of the principles of the Republican party; and I have no doubt that the gentleman has some protection from the government for his mining property.

We know that these groves are essential to the prosperity of our broad domain. We know that it will bring rain which we so much need, and we know that it will produce a mercurial effect. While I do not expect to set out any trees, I am in favor of helping those who want these special privileges. I am in favor of developing this country, and I know that those who have had experience in setting out trees have found it a difficult task and that it is just the reason why so many of these tree claims have proved a failure; they have got to have some inducement or it will not be done; just as our government had to offer inducement to the people to build up our manufacturers.

By the President: The question is the amendment offered by the gentleman from Hughes.

Mr. Moody: I say that the amendment is not germain. The first propositoin is upon the amendment offered to strike out the word "one-thousand" and insert the word "five-hundred". The motion to strike out the entire section would be germain.

By the President: I think the point of order is well taken.

Mr. Goddard: I move to strike out the entire section.

Mr. Brookings: I wish to say that there is nothing that is so much abused as this question of exemptions.

I am in favor of a provision that the taxes shall not exceed in any one year, two per cent. This is a farmer's question; the trouble is it is not so much a question of exemption, as abuse of this kind of a provision.

It is a celebrated lecturer down in Iowa that says the most profitable thing to engage in in the Northwest, is raising trees. It seems to me that he had better have added "as they pass exemption laws keeping the taxes down". The better way is to hunt up some method to make every man pay his portion of the taxes; make these rich men that hide their moeny, and keep it away from taxation, pay their share of the public burden.

Mr. Huntley, of Jerauld: Having some little knowledge of the labor that is imposed upon those who raise trees, I thought I would like to say a few words upon the subject.

I have performed some labor of that kind myself; I set out last spring two miles of hedge; less than half of it is living now, how much of it will be alive next spring, I don't know.

I have seen these tree claims spoken of; I know of several instances of where parties have been obliged to get an extension of time, because the seed didn't grow the year before.

The gentleman has just said that somebody, somewhere has said that tree growing was the most profitable thing in Dakota; we invite our city friends to try it and see.

I am afraid sir, from my observation in the matter we shall not see these prairies covered with trees by private efforts in raising them for a long time, unless it is encouraged.

I think the gentleman from Lawrence is entirely right. I believe in the doctrine. Only he thinks one hundred dollars is sufficient; I think he is mistaken; I think that many of the tree claims that the government have made exempt from taxation, they have paid more than one hundred dollars on them and have not a tree growing on them either. I know such a case that come under my supervision; I secured the labor done on the tree claim for a gentleman back in Illinois; there is not a tree growing, and more than one hundred dollars has been expended on this claim.

I move to amend by striking out the "one dunhred dollars" in this amendment and putting in "five hundred dollars".

Mr. Goddard, of McCook County: I desire to call your attention to Section 19 in the rules of order; a motion to strike out a proposition takes precedence of a motion to amend and if carried shall be equivalent to its rejection.

I move to strike out entirely, Section 8, for this reason; I am a farmer myself, my sympathies and interests are with the farmers; I am interested in all that bears upon the protection of the country; I believe I appreciate the benefits of having trees in this country as well as any one.

I have observed all the operation of the law that we have been living under with reference to trees; that those that have been best able to pay taxes and have the exemptions, their property is protected; that has been a source of annoyance; it has been annoying to many that have found it hard to pay their taxes. They are opposed to this exemption. I am glad that it has been reduced; if it is in order to reduce, I shall be in favor of taking out the one hundred dollars.

The Legislature last winter passed an act providing that the planting of trees should be encouraged in this way; every acre planted to trees and cultivated three years, should receive for a period of ten years two dollars a year; it has been stated by some members that that would be a paying enterprise; it would be.

Cultivating trees, three years! We laugh in our sleeve at those legislators who encourage us so to labor as we sit down and enjoy the relief from taxation; but as a matter of principle it is unjust; we as farmers are ready to take our share of the burden, we are ready to support the government in all just taxation.

We will derive the benefit of our trees ourselves; we will willingly accept that as sufficient; we sit under the shade of our trees; it is very comfortable; very comfortable to have protection against the winds, and storms of winter; I believe that is ample recompense for every farmer to encourage him to set out trees.

Mr. Stone: It seems to me it sounds well from the gentleman from Minnehaha County, where he has the advantage of location,—

Mr. Goddard, McCook County: I insist.

Mr. Stone: I like their laws passed last winter; I find there is a law which encourages tree planting; I live in a county where last year there were no trees to be seen; a perfect blank so far as the eye goes; the tree claims have not been improved at all.

It is thrown out as arguments the difficulty with which tree claims can be improved, and so on. We are very anxious in our county that trees should be grown, but at the same time we are informed by the older counties what a very difficult thing it is to do; we are very backward in taking hold of it,--of any thing of the kind on our individual responsibiltiy, with even the prospect of in the course of eight or ten years we may get back something; we came there without much money to start with; we are not able to grow these trees without some encouragement.

We know it will make the whole country better to have these trees. I myself am individually interested.

That law the past winter made me think that I could start in and plant a few trees upon my claim; I could not do it otherwise; I could not feel authorized to do it otherwise.

I think if this matter is stricken out entirely that many parties will be in the same condition that I am, they will feel that they can not afford to plant trees under the circumstances.

As has been said by one gentleman on this floor "you have started in on the matter of exemptions, now be just".

Mr. Coffin: I ask a single sentence with reference to exemptions of tree planting, the right and wrong upon it; myself and children upon our tree claims and homestead have planted over one hundred thousand trees, and we are not done. We ask no exemptions.

Mr. Fowler: When I came here I came for the purpose of assisting in framing a Constitution for the people of South Dakota, anticipating that we should be equal and just in everything that we did; that our effort would be in the interests of all persons in the Territory; we would treat every man, woman and child within the said area, alike.

But let us see what we have accomplished.

We have not succeeded in compelling a class of corporations within the Territory to pay their just and equal proportion of the taxation; it has not been our fault, Mr. President; we have done our best to accomplish that end. But like lots, I am so unfortunate as to own some stock in some of these mining corporations (not a great deal, I assure you). Now we come down to a place where I may consider myself fortunate; I think I change my position from the minority of the Convention to the majority; I now join my fortunes with that portion of this body that desire to tax church and school property; not that all of them but part of them voted with me.

Now, I also happen to have a large tract of land, or several tracts, in this section we have been adopting the theory of the gentleman from Beadle; I can upon each quarter section plant a few trees and erect a little improvements and thereby exempt every dollars worth of real estate that I own from taxation.

Calls of No, no ,no.

Mr. Fowler: That is within the provision of this section. One fourth of each quarter section I will exempt (it was error) one-fourth of all the land I own from taxation, thereby; and for the purpose of evading the revenue law, I will plant thereon the whole improvment on that forty acres the result will be that at least three-fourths of all the property that I own will be exempt from tavation.

Now, Sir, I do not need to reply; if we are going to have that class of legislation in this Constitution I favor it. Because I do not believe there is a gentleman on this floor who can fix himself in position to evade taxation any quicker than I can; if this is the spirit of this Convention, to compel one portion to pay taxes and exclude another portion I propose to about face and join hands with that portion that propose to evade taxation.

Mr. Mason: It seems to me that the gentlemen of the Convention do not see this as I do at all events.

Suppose that I put out five acres of timber on forty acres on each quarter section in the whole Territory; the assessor came along to assess the quarter section; after those trees have been growing three or four years, you do not get any exemptions at all because it is worth a thousand dollars more on account of that timber growing, now if we let these men have three or four years to start out in this thing, what have we got; we have got somtehing that will benefit the country more than any one thing we can do.

I tell you, gentlemen, I believe in improvements; I do not care from what source, or from what power or direction. If we can encourage it, let us do it.

It has been stated if I understand the gentleman right, that that law relative to planting trees had been repealed. I deny it. It is on the statute books today that every man who puts out five acres of timber and cultivates it for ten years shall be exempt from taxation to the extent of one thousand dollars. It is the special provision of the act. Now, those groves are growing; they have been planted in my section of the country a great deal, on homesteads as well as on tree claims. I believe that the law should have been, once a tree claim always a tree claim, and when it was entered the first time at the land office, that that first year should be the commencement of the eight years, but we must take it as it comes to us; and I believe that it is the grandest improvement that we can uphold and encourage, and I hope you will look at this thing carefully and considerately before you relieve these bare prairies of one single tree.

Mr. More, of Beadle: I move the previous question. (seconded).

Mr. Moody: I trust the gentlemen will not cut off debate on this proposition. I am very much interested in it. I have listened with great pleasure to hear the different views expressed by the members of this Convention. Certainly I am representing no interest none whatever; and I do not suppose that anybody else came here for that purpose. I see a section proposed by the Committee which proposes to exclude, or give the Legislature authority to exclude certain class of trade from exemption. Now, everybody exempts those public properties, like schools—

Mr. More: Does not the previous question, when properly before the Convention, have precedence?

By the President: It does, certainly.

Mr. Moody: But the previous question has not yet been seconded.

A Member: I seconded the motion.

Mr. Moody: The previous question must be seconded by the House. Now, Mr. President, isn't it the rule that the mover of a proposition has the right to close?

By the President: That would defeat the whole object of the previous question. The motion is on the previous question. (Carried).

By the President: The question before the House now is, shall Section 8 be stricken out?

Mr. Miller, of Hughes: On this question I call for the ayes and nays.

Mr. McCallum: Do I understand that the amendment of the gentleman from Lawrence has been withdrawn?

By the President: The other takes precedence.

Mr. Owen: It takes ten, does it not, to call for the ayes and nays?

(A large number of the members immediately arose).

By the President: A call for the ayes and nays is demanded by ten.

The roll of the members was called.

Mr. Reed: I desire to explain my vote; I have supported heretofore the negative side of the question, but after listening to the arguments I believe it is a species of legislation I do not desire to support; unjust discrimination; therefore I vote no.

By the President: 48 ayes and 23 nays; motion prevails.

(The Convention adjourned at 12:35 P. M.)

The Convention was called to order by the President at 2 o'clock.

Mr. Kanouse: Mr. President, I would suggest that the Chiarman of the Judiciary Committee be requested to draw a resolution as to the several questions submitted by the Auditor of the Territory.

By the President: I would suggest, Mr. Kanouse, that you reduce that to writing. The Auditor has submitted nothing to the Convention. He has made some inquiries outside.

The resolution offered by Mr. Kanouse was reduced to writing, and the same adopetd.

Mr. Moody: Mr. President, at the request of some members of the Committee on the expenses of this Convention, I have already examined this question, and am prepared to submit a resolution, if it is in order to be received by the Convention.

The act provides that the delegates to said Convention—I will read. (Here he reads the act.)

My view of the meaning of the act is this: Where a member is in attendance upon this convention he is entitled to $2.50 per diem and all necessary holidays. There is a recess in the session of the convention, nevertheless all members are in attendance upon the Convention, and it excludes, in my judgment, any member who is not in attendance upon the Convention, and allows them per diem for the days in which they are in attendance upon the Convention. Therefore, so far as the members are concerned, I have drawn a resolution with reference to the officers and employes of the Convention. The compensation is within the discretion of the Convention, and they may be allowed pay for Sundays work, or otherwise to any per diem which this Convention may say is fit and proper.

The resolution was submitted and placed on file with the Secretary.

The resolution was adopted,

Mr. Ward, of Hughes: My colleague is detained from this Convention by sickness.

A Voice: Does this include the pay of the employes?

A Member: Yes, it does.

A Member: Shall Sunday per diem be allowed officers and employes?

Mr. Moody: I suppose that depends upon whether they have been at work on Sunday.

By the President: Further report will be found on the 5th page, 10th day.

Mr. Coffin: Will it be in order to offer a substitute or amendment, as the case may be, to take the place of Section 8, stricken out.

By the President: It will be in order to offer an independent section.

Mr Cofffn: Can I offer it now?

By the President: I think so.

Mr. Coffin: There have been a good many votes cast for striking out Sec. 8, because the wording was not satisfactory. Not because there was any disposition on the part of the majority present not to encourage tree culture, but because we had opened too wide a gate. It is a conceded fact that tree culture is beneficlal to the whole state or territory; it has been encouraged by law in nearly all, if not quite all of the north-western states. I believe that the Legislature should have the power to make suitable laws for the encouragement of timber culture, and I think that it should be left with the Legislature, and I apprehend they will represent the people just as well as we would. They are under the same responsibility to their constitutnts and they will not be liable to pass laws that can be repealed at the next Legislature. The planting of trees benefits not only man but it helps the climate in a great many ways that it is not necessary to mention, it is also a public benefit and I hope it will be encouraged.

Mr. Proudfoot: I hope the Legislature will have power to set aside the taxation of railroad corporations also.

Mr. Coniff: I look upon this matter from a different standpoint. I don't consider it class legislation. If one attempts to plant trees the Legislature may provide that the taxes of the land where the timber is planted, may be remitted. It is not class legislation.

Mr. Kellum: It seems to me that that provision is entirely harmless and if it is to go into the Constitution this is a good place to put it in. But the question is whether the Constitution means any more with it than it does with it out. Is there any question with anybody here that the absence of that provision will make any difference with the Legislature as to any such power. Possibly I don't nderstand the connection in which this proposed section should be read. But there is general inhibition by the Legislature against exempting property from taxation and so they encourage tree culture, but it certainly is not by exempting the property from taxation. Section 9 reads: All laws exempting property other than that enumerated in Sections 6, 7 and 8 of this article shall be void, there is a general inhibition to it. It does not seem to me, unless some other suggestion is offered that the suggestion now before us is at all necessary. It don't do any good, nor does it do any harm. If we start out with the gentleman's proposition, the Legislature may do that which it is not prohibited from doing, then they certainly can encourage the growth of trees.

Mr. Moody: If this proposition to leave Section 9 as it now is, referring to Section 8, and then put into Section 8 the clause as is proposed, the proper construction of that section will be that the Legislature would have power to encourage the culture of trees by exempting them. Perhaps the gentleman does not understand me; I say, if Section 9 is left as it is, including Section 8, which reads: To encourage the planting and cultivation of timber, the Legislature shall by general law exempt from taxation for a term of years not to exceed one-fourth of any quarter section of land and the improvements thereon, to the extent of one-thousand dollars in value. while Sec. 9 provides that all laws exempting property from taxation, other than enumerated in Sections 6, 7 and 8 of this article, shall be void. If you take Section 8, which provides in general terms that Legislature may encourage the planting and cultivation of timber; stop there, and you do a greater damage than you would to leave Section 8 as it was, because in the very next section you allude to those articles which may be exempt, you allude to this very class of property. I am opposed to any such class legislation; upon principle it is wrong in principle. It is true that the planting of timber is a benefit to the country; every improvement upon the land carries with it some kind of benefit. The man who erects a hotel or brick building in your city confers upon his neighbors a benefit, necessarily so. The man who comes into the Territory and cultivates 160 acres of land, benefits the land by the side of it. And those who hold wild land, uncultivated land in the vicinity of cultivated land are benefitted by that cultivation and the price of your land is raised.

It is said that trees bring moderation to the rigors of the climate in this latitude, and it is true; so do railroads, so do telegraphs. It is said that the currents of electricity which are carried along the telegraph wire increase the rain fall in a conutry where rain was too limited before, and affects the climate more than the cultivation of land and the planting of forests.

You say that not one spike of that railroad shall ever be exempted from taxation; so say I. Not one species of property that is not public in its nature be exempted from taxation.

Now my friend from Beadle county who presents this proposition himself, voted this morning to strike out Section 8, and if he insists upon his amendment to leave Section 9 as it is, he does a much worse thing than would have been done had this Convention confirmed the report of the Committee because in the section as it then stood there was some limitation, but in the section as he proposes it there is no limitation, we are here to restrict the Legislature.

(Section 8, upon being pressed to a vote, Mr. Fowler called for the yeas and nays, which upon motion was seconded.

The amendment was lost by a vote of 50 nays, to 31 yeas.)

Mr. McCallum: 'I sent up to the Secretary's desk an amendment to Section 13; I move to substitute the following for section 13:

"No County, Township, School District or any other officer shall use any public credit, money warrents", etc., etc.

(On file with the Secretary).

It seems to me Section 13 as it now stands does not prevent any officer of the county or school district from speculating in warrants it is restricted to money; it is also very comprehensive as to who shall not do this; it includes almost everybody; I do not know that there is any objection to outsiders purchasing county warrants for speculative purposes, but I do think there is a serious objection to officers of school districts speculating in county warrants; therefore I move this section as a substitute for thirteen.

The proposed amendment of the gentleman from Beadle county was lost.

Mr. Moody: I think there should be a verbal correction in Section 9. It is true the Committee on Arrangement and Phraseology might possibly do so, but I move that the word and figure "and 8" be stricken out; leaving it "all laws exempting property from taxation, other than that enumerated in Sections 6 and 7 of this article, shall be void." (Carried.)

Mr. Owen: I call attention to the words in Section 13. I do not understand that exactly and am afraid we shall not after we make that a law. Properly construed it would have a broader signification than we really desire it. My query is who is it that can be guilty of felony under that section. Is it limited to the custodian of the public funds?

Mr. McCallum: No, sir.

Section 15.

Mr. Britton: I would like to ask the Chairman of the Committee to explain that section. I have not had a copy laid on my desk and don't fully understand it.

By the President: You will find that on page five, of the 10th day's proceedings.

Mr. Reed: If the gentleman will take the pains to procure a copy, I think it will explain itself. That is a copy, word for word, from the Illinois Constitution. The Legislature provides the details. It simply confines it to one officer; you don't have to go to half-a -dozen places.

Section 16.

A Member: Before passing to that section it seems to me that this Convention ought to carefully consider Section 15; and I would ask the Chairman of that Committee if he intended to confine this absolutely to this one officer and a court of record; no process upon the order or judgment of a court of record?

Mr. Reed: That is the idea, exactly; yes, sir.

Mr. Moody: It upsets the whole system of taxation, as followed by these western states outside of Illinois, and you will have your courts pretty well filled up with business.

Mr. Reed: In Illinois the officer having it in charge makes out a schedule list, and simply gets judgment entered upon that.

Mr. Moody: Well, I am in favor ordinarily of perfecting the title of property under such sales through the judgment of a court of record; and, while I am perfectly well aware it forecloses by such proceedings all parties whose taxes are delinquent and whose property is sold, still I do object at this time to incorporating into the Constitution such a provision which absolutely requires it. Now, it may be possible in the history of this coming state that there will be counties where this will be almost impracticable to provide for; or at least the machinery will be very extensive; and it strike, me that that matter should be left to the Legislature in the future and they will have the authority to do it if it is deemed advisable by the people; not to confine them to that single mode of providing for the sale of property for taxes.

Mr. Lowthian: Mr. President, I believe that in Minnesota they have about the same law as is recommended here. It is a law that was passed for the purpose of speculation; it passes through a court of record, and was gotten up by speculators. If you want to pass that very thing in Dakota, why pass this institution and you will find that when you come into a court of record and try a tax title passed under this kind of a sale you will find it is a hard matter to redeem it, but under the ordinary method you can redeem land. I move to strike out Section 15.

Mr. Owen: I hope that it will not be stricken out. I am quite familiar with the working of such a section in Illinois; they are the same as in the Constitution of Illinois, 1870. The practice is to file the delinquent list in the county court, and the notice is published, and parties have just such a time as the court may give—after the first day of the term of court within which parties may file their objections. It is a matter of taxation carrying out the general principle of the bill of rights that no man shall be deprived of his property without due process of law. There is the judgment of a court of record, and upon it the subsequent proceedings are based. There is the certainty that he will know that he is protected; that he will not lose what he has paid. And in the next section it provides that before the time of redemption expires actual personal notice shall be given to every occupant of the land when the redemption will expire. He has his two years and his actual personal notice if he is living on the land or has any lessee there. It secures the payment of revenue and secures title if the man does not pay his taxes.

Mr. Campbell: If I believed what the gentleman from Grant says in regard to this I should be opposed to it, but I have taken the pains to look at it—Section 4 of Article 9, of Illinois. Now, I have seen this kind of a case: I have seen the legislature pass a law that the tax collector, after certain notice and certain proceedings, have power to sell property, and I have seen the courts hold that such laws were good and passed the title,—contrary to all my previous and my present views of what are right and equity. This prohibits any act of that kind by the legislature by providing that there shall be no sale of such property but by the general officers of the county by the order of some court of record. You must go into court and must give notice, and the owner must have his day in court, and there must be all the legal proceedings that are usual in such cases before this judgement can be had. It seems to me that is a safeguard.

Mr. Britton: It seems to me that this is hardly right; it is making it much more expensive to the owner; within my personal knowledge there have been a great many pieces of land sold for taxes; it was impossible to pav them before this time, and as soon as they could sell thier grain or make some turn they paid their taxes or redeemed them. This is got right out of the man who owns the land and who should be dealt with as lightly as possible. It seems to me that this expense will come right from the man who should be to the least expense. It gives perhaps a better title to the man who wants to go and buy up taxes, but I don't think we should be quite so expensive at the start.

By the President: Those who are of the opinion that this motion to strike out Section 15 shall prevail, say aye.

(Division called for. The motion prevailed by a yote of 44 for and 12 against.)

Mr. Reed: I suppose under that ruling that the succeeding ection would follow with it.

Section 16.

By the President: The Chairman of this Committee moves to strike this section out, (Carried.)

Mr. Wright: We now have the printed report of the Committee on Municipal Corporations. We are ready to take that up any time the Convention may desire.

By the President: We have passed that. Now, we will have to wait and have it in its regular order.

By the President: The report of the Committee on Congressional and Legislative Apportionment.

Mr. Wright: I would like to inquire if the minority report has yet been printed?

Mr. McCallum: I would ask what has become of the report of the Committee on Revenue and Finance?

By the President: It is referred to the Committee on Enrollment and Engrossment.

Mr. McCallum: One section is still in the hands of the Committee.

By the President: I think you are correct; it remains in the hands of the Secretary.

Mr. Owen: It has been suggested that the report of the minority has not yet been printed.

Mr. Fowler: I move that the Convention do now go into Committee of the Whole to pass upon the report of the Committee on Congressional and Legislative Apportionment.

The motion was lost by a vote of 27 for and 35 against.

Mr. Brookings: I move that we consider the report of the Committee on Congressional and Legislative Apportionment.

By the President: It is before the Convention, unless some order is made.

Section 1 is read and passed without amendments.

Section 2 is read.

Mr. Neill: I see no provision here for senior counties, and for the canvassing of the votes. As an amendment to Section 2, I will move that the following amendment be made.

And the county in any senatorial district, having the largest population according to the recent census, shall be the senior county.

By the President: Will Mr. Neill please send that up in writing?

Delegate: Is not that a matter for the Legislature?

The amendment is read.

Mr. Neill: There seems to be some misunderstanding about that. It is intended for this only. There will be no Legislature this fall—I mean at the first election.

Mr. Campbell: It is true that this apportionment does apply to the first election. But in the Schedule would be the proper place to provide for that. The schedule is the proper place.

Mr. Neill: If it will be provided for in the schedule, why, I will withdraw my motion.

Mr. Wright: I move that where the term "46th parallel" occurs in this report, that it be stricken out, and the "7th Standard Meridian" be inserted.

I further move that we amend the report by providing that District No. 9 shall consist of the county of Minnehaha and amend further by providing that District No. 10 shall consist of the city of Sioux Falls.

By the President: It is moved that the words "46th parallel" be stricken out, and the "7th Standard Meridian" be inserted.

Mr. Campbell: "7th Standard Meridian?"

Mr. Wright: Did I say "meridian"? It is "parallel".

Delegate: I don't think that wants to be put in.

Mr. Wright: Simply strike out the words "46 parallel".

Delegate: Let it go to the Committee on Phraseology.

Mr. Brookings: The second motion is in reference to the Minnehaha district. I don't know the object of the motion. I might as well let the gentleman explain his motion before I say anything.

Mr. McCallum: I think this No. 9 had better be let alone for the present. Now, the first part of the section should provide until otherwise provided by law. When the Legislature meets if there is any necessity for making this change, it will be time to do it. Then if the people of Minnehaha county want two senators, they can elect them without much trouble, even if they have to take one from Sioux Falls.

By the President: The Secretary will read the propositon to the amendment.

The amendment is read.

Mr. Brookings: I don't want any such thing in Sioux Falls, Mr. Chairman., I want to say something.

Mr. Jessup: If the gentleman from Minnehaha will possess his soul in patience, it will be all right.

The Secretary reads: The people of Sioux Falls shall be entitled to one senator, etc.

Mr. Wright: I will say that I was mislead by consulting the minority report of the proceedings, by not looking at the majority report where the provisions are made for that in the beginning of the section. The reason that I make this motion is because I think it proper that each senatorial district should be represented by one member—that there should be a union of representation established, that senatorial representation should be based upon the population and not upon territorial boundaries, In Minnesota, I think it is, this matter is based upon population and they have two senators. I propose that Sioux Falls be entitled to one Senator. I can readily conceive that it is not essential that constituents should be equally represented, then why not form into one grand senatorial district.

Mr. Brookings: I move to lay the gentleman's motion on the table. (Carried).

By the President: The motion is laid upon the table.

Mr. Brookings: We haven't got through with this, have we?

Mr. Owen: The report has not been read, only as to senatorial districts.

By the President: I understood the gentleman to make this motion that the report of the Committee be adopted, that is the motion that I put to the Convention, that is the motion that I decided was carried.

Mr. Frank: There is a report on representation.

By the President: I would suggest to the Convention that it is moved that the motion adopting the report of this committee be reconsidered.

The motion is reconsidered.

Mr. Owen: I move that we proceed to read the rest of the report, that it be read before it is adopted.

Mr. Corson: I would like to make a motion—that District 29, of Lawrence county, be entitled to four senators.

By the President: Is there any objection to considering that motion.

Mr. Campbell: Let us hear it read.

Mr. Corson: The motion is withdrawn.

Mr. Fowler: I move that the report of the Committee be adopted.

By the President: The ayes have it, the report of the Committee as amended is adopted by the Convention and referred to the Committee on Engrossment for engrossing.

Mr. Ward, of Yankton: I would like to call the attention of the Convention to the fact that a great many of these reports have not yet been printed; the one on Seal of State and Coat of Arms has not been printed. I have the report on Education and School Land, and if it is in order, I move that we consider that report.

A Member: I would like to raise the question, I would like to inquire whether they are sure that the printing will be done.

By the President: The Chairman of that Committee can no doubt inform you.

By the President: It is moved that we take up for consideration the report on Education and School Lands.

On motion the Convention resolves itself into Committee of the Whole with Mr. Corson, of Lawrence, in the chair.

Committee of the Whole

Sections one, two, three, four, were in turn passed without amendment.

Secretary reads Section five.

Mr. Edgerton: I would like to ask about the practicability of placing in there seven per cent.

My own experience in the matter of re-investing funds that arise from the sale of school lands,—I was connected with a State University for a number of years as Regent; when those payments were made we had to re-invest the funds and it was impossible for us to re-invest them at a greater rate than four or five per cent.

Take the United States Threes today; they are 103½ in the market; that is it takes one hundred and three and a half dollars to buy one bond of three per cent. United States bonds.

4½ are 112 3-8. United States 4s. They are on long time are quoted 123 3-8.

My idea is this; that we should take as low a rate of interest as it is possible to re-invest the funds again at par that these lands should be sold at, for it is impossible for us to invest these funds at a greater interest than four per cent.

I have another reason for it; that is this land you sell at a higher rate if it is a section of land adjoining this city today, it probably would be sold at speculative prices. And if sold at seven per cent. interest it will not be long before it will be paid in; if it is as high as seven per cent he can easily secure the money and pay it into the Treasury, but when you will be called upon to re-invest the fund you will have great difficulty in the State receiving more than three or four per cent.; for that reason I make the inquiry.

That has come within my own knowledge, the difficulty of re-investing these funds.

By the Chairman: Will any gentleman answer the inquiry?

Mr. Moore: The Committee thought seven per cent. would be readily obtained and perhaps all further difficulty with regard to the matter will be answered in the clause of the report in the succeeding section; provision is made for the re-investment and the kind of investment indicated.

Mr. Edgerton: Because I anticipated that would be the answer, I asked the question.

That is, this provision is made for investing it in farm mortgages,—mortgages on real estate instead of State securities.

I am opposed to this; I think you should adopt this with care and after the most careful examination.

When you have got a million dollars, as you will have in the future State Treasury to be invested, because every dollar would have to be invested in farm mortgages, you never will be able to obtain in Dakota over four per cent., and with the provision here that that shall be loaned out in farm mortgages at four per cent., you are building up at the seat of government, wherever it may be, a powerful influence, when the annual election comes around.

A mere quarter of a million, or even one hundred thousand, what a powerful influence you have got there, in the controlling power of the future state.

I would have the school fund beyond all possible control of the elections of the future state; if there is any fund that should be sacredly set apart beyond a possibility of its being used for such purposes, it is the school fund.

And there is another thing; you let that be invested all over the state, twenty-five thousand to this county, twenty-five thousand dollars to Spink; a hundred thousand to Lawrence county and you have got one of the most powerful machines at work to maintian men in power, that are in power.

You also have another difficulty you will consider; before many years legislatures will be elected, and extensions will be asked from time to time; you gentlemen need no assurance from me but that I have the highest opinion of their ability with reference to taking charge of this work; I only give to them my experience; an experience as to the dangers that may possibly arise if such funds be in the hands of any set of men to be distributed among their friends.

By the Chairman: Do you propose any amendment to this section, in terms?

Mr. Edgerton: I move to strike out seven per cent. and insert four and one half per cent. I think four and a half is higher than we can possibly get for any investments in United States securities or any Dakota State securities when we shall have our State fairly started.

Instead of its bieng fifteen years, I would rather it would be fifty years, than fifteen.

I will make it four per cent. instead of 4½; I think that is about what it ought to be; at the suggestion of Dr. Ward, I make my amendment four per cent. instead of 4½.

Mr. Ward, of Yankton: I second the motion.

By the Chair: The motion is to strike out "seven" in the 26th line and insert "four".

Mr. Ward, of Yankton: Other members of the Committee will bear witness for my pleading with them in the Committee for the same thing, or this in substance; they said we could get seven as well. Indeed, some of them wanted eight and nine; and I am very glad to find that my views have so cordial a support from such a gentleman as has already spoken. And as to the manner of investment I suppose that will come up under another section; so I will say no more at present.

Cries of "Question", "question", "question".

The motion prevailed.

Mr. Britton: I move to amend the section by striking out the word "ten" in line 21 and inserting in lieu thereof the word "seven". I think ten is pretty high. Now, I think the idea of this is not to postpone this school fund until a great many years hence, but now at the present itime, and if we make this ten dollars at the present time we probably will not have a great deal of money to invest and draw interest. (Seconded).

Mr. Brookings: The reason that I oppose the amendment of the gentleman is that the low rate of interest will cause these lands to bring much higher prices than they would were the interest seven or eight per cent. If poor people come in here this low rate of interest and long time is going to induce them to purchase those lands at enough higher prices to make up the difference that we have cut down in interest. Now, if some other gentleman has got 160 acres here to sell why he can't get the same price for that land, at the ordinary rate of interest, that the school section will bring where we only ask four per cent. So the high rate of interest does away with the high price. The gentlemen should look at it in that light; the low rate of interest will raise the price of land.

Mr. Ward, of Yankton: There is another reason; there are a great many lands that are worth far more than $10 an acre. Some of them are worth as much as one hunderd or perhaps two hundred dollars per acre, according to location. There are already enough lands that are worth nearer twenty-five dollars per acre to keep busy all the machinery that can be put into operation for selling the land and taking care of the proceeds for two years to come; and within that time every day appreciates the entire value of all the land. Care is to be taken, according to the terms of the law, in selecting the most valuable lands first, without reference to their location. Some lands may be sold in this county and in some the far northern and western counties; and there are enough of those to take the entire care and time of all the officers that will ever be set at work on these until all the land shall come up in value. All of them that can be sold will probably average a great deal more than ten, even the first year.

Mr. Owen: I move as an amendment to the amendment that we strike out the word "ten" and insert the word "fifteen", because, although I agreed to the "ten" as reported, since we have made so radical a change—(here Mr. Owen turned his back to the Chair and reporters, which rendered the balance of his remarks inaudible.)

Mr. Fowler, of Pennington: Mr. President, I have some knowledge of that Nebraska system. The minimum price there is seven dollars an acre, and I venture the assertion that I have known of at least fifty or sixty cases in that state where land went as high as thirty or thirty-five dollars an acre. The appraised value has nothing to do with it. It is put up at public sale and sold to the highest bidder. There is a good deal of land in this Territory that will never be worth ten dollars; in fact, we have a little out in our county that will never be worth anything. Therefore I would favor its standing at the price reported by the Committee.

Mr. Haines: Mr. Chairman; the Convention has voted to fix the rate of interest at four per cent. Now, I want some compensation somewhere for throwing away half the interest we could get easily enough in this Territory upon our lands. That is to say, I do not want the permanent school fund to lose the correlative benefit it should have for reducing the rate of interest. Now, if I understand one of the arguments in favor of reducing the rate of interest, it was that the land would bring so much higher price. Now, how much higher price ought they to bring? If the investment is left as suggested by the Committee, at fifteen years, and eight per cent. can be obtained upon all lands sold, and we take only four per cent., we will lose in fifteen years sixty per cent. to the permanent school fund.

Now, with what little practical acquaintance I have with financial matters in this territory I am satisfied that eight per cent. is considered a very low rate of interest upon lands. The ruling rate is ten per cent.; I think I am borne out in the statement by the experience of many upon this floor, and especially those gentlemen who have been connected with the real estate business. If the Committee is right, with interest at seven per cent., the minimum selling price ought to be ten dollars. If we fix the interest at four per cent., the minimum selling price ought to be fifteen dollars per acre. Now, I am not in favor of frittering away the principal of this school fund, and it seems to me that we will not only do that to a certain extent, but we will lessen the income from it very seriously if we do not raise this valuation. The point is, if the rate of interest goes down, the minimum for which lands are sold ought to rise.

Mr. Campbell, of Yankton: This is the minimum; it is not a price below which you can go. Now, you don't want to put that price so high that half of these lands, away out on the western half, and away on the reservation, will be kept out of the market.

You will never see those, in your life, when they will sell at fifteen dollars. You want to put the minimum price at such figure as you think the lowest and poorest lands can be sold for. Why, there are many thousands of acres of land that will bring a very much higher price; here in Minnehaha county they have a school section that is worth one thousand dollars an acre; but your minimum price is what governs the poorest and least saleable lands you have got.

Mr. Fisher: It seems to me if we change this we simply shut out all sale of school lands for five years. I am supposed to be living in a good county—Spink. There is no one of the 72 school sections in our county that will sell for ten dollars an acre. There are many such counties. There may possibly be an exception in some of your counties. But in that case,—such a case as the gentleman referred to when he alluded to Minnehaha county, and as at Huron, those are the very lands that ought to be held. The market is not ready for them now. I believe that this school fund could be greatly increased and enlarged by turning off a part of these common or ordinary grade of lands now, and stop paying the heavy school taxes that we are now subjected to all over this Territory.

Mr. Gehon: I have a school section adjacent to my own lands in Lincoln county, and when that shall be sold I wish to purchase a portion of it. I have been trying to sell a portion of my own land there; I have been trying to sell that quarter-section of land for sixteen dollars an acre for the last two years and I have not effected a sale. And I would be very loath to pay ten dollars an acre for that school section land adjoining mine when it is sold. I think the figure is high enough.

Mr. Britton: I think, Mr. President, that the sum of fifteen dollars will be found entirely too high. Those of you who have had real estate to handle know that you can not sell other lands for that price. I live in the county of Spink, one of the best in the country, and I do not think we can sell our lands there for ten dollars an acre.

Why should we defer this? Do you think men are going to pay—

Delegate: I move that the price of these school lands be not less than $10 an acre. I do not propose to fool away these school lands. We do not know but the lands will be worth $15 or $20 an acre and I will support the motion.

Mr. Brookings: I think the gentleman is in error. The very idea of this Convention fixing these school lands at $10 will not tend to raise the value of these lands. Why, there is not any lands sold in Nebraska at that price. A gentleman who has visited there says our lands are far superior to theirs. Now, we do not absolutely say to sell at $15, so that we will get all that they are worth. Some of these lands in the western portion of the Territory are not worth $2 an acre. This low rate of interest will have a tendency to bring all interest down. Then in a short time any one of us can get money at 8 per cent., and if our credit is good we can get all we want for 6 per cent. The theory of low interest is better for all concerned

Mr. Neill: We now have three propositions before us, and I think we can consider one of them I therefore move the previous question.

Mr. Owen: I will ask leave to withdraw two of the motions by consent. We both believe in the sense of this Convention to accept the figures of the well drawn report of the Committee.

By the President: Leave will be granted to withdraw the amendment.

Mr. Kanouse: I want to offer an amendment to the 26th line. Add to that line after the word "annually" the words "in advance".

Mr. More: In line 4 there is a correction to be made.

By the President: There is an amendment offered by the gentleman from Sanborn.

The amendment is accepted by the Committee, and upon motion the same was adopted by the Convention.

Mr. More: In line 14 the word "cash" should not be there.

By the President: It is in the preceding section. What do you suggest in regard to it? That it be stricken out, the word "cash"?

Mr. More: Yes, sir.

By the President: That will be considered then by the Convention as stricken out.

Delegate: I move to strike out the words "one-fourth" in line 24, and insert the words "one-third".

Mr. Coniff: I thought that that was an ample sum, in view of the fact that the Committee reported that no title shall be vested, and in view of the fact that the interest must be paid in advance.

Delegate: There seems to be some misunderstanding 'n regard to the four per cent. It is to prevent the Legislature from selling these lands at a higher rate of interest. It says that it shall be not less than 4 per cent.

By the President: The question is upon the amendment to strike out the word "one-fourth" and insert in lieu thereof, the words "one-third".

The amendment is lost.

Mr. Owen: I would favor that not more than one quarter section shall be sold to any one person.

The amendment is lost.

By the President: If there are no further amendments, the Secretary will read the next section.

Section 6 is read.

Mr. McCallum: Does it read "Commissioner of Schools and Public Lands?"

Mr. Ward, of Yankton: It is a misprint. Scratch out the letter "s" in the word "schools".

The amendment is adopted.

Section 7 is read.

By the President: Any amendment to Section 7?

No amendments being offered the Secretary reads Sec. 8.

By the President: I would like to ask whether it is intended that these agricultural lands shall be leased for fifteen years. I think, myself, that such a provision would be unfortunate, they might depreciate in value during that length of time. I should think that they should be leased for one, two or three years. Should you put it at fifteen years without any limitation, the value of the land may depreciate. I think it should be reconsidered and not leased for more than three years.

Mr. More: The question was discussed by the Committee whether they should be leased for pasturage, and we decided to leave that matter open for the Convention, but I heartily hope, with our honored President, that the Convention will preclude the possibility of their being leased for fifteen years without qualification.

Mr. Campbell: I agree thouroughly with the suggestion of the President, and I move that they shall be leased for pasturage and grazing, and that that be added in line 26, after the word except.

The Secretary reads the section as amended.

Mr. Campbell: I will change that to pasturage and meadow, so that it will read: Except for pasturage and meadow at public auction.

Mr. Fisher: I would like to suggest that we gentlemen who own town lots ought not to be restricted, as it will be better to lease them for other purposes. I would like to call the attention of the Convention to the system of Illinois. In the city of Chicago they have several public school lots, and it is one of the most valuable pieces of property in the municipal fund. I think we should change it so as to allow the Commissioners to lease the lots.

Mr. Ward: I stand on this ground—not to lease an inch of ground but to sell everything, because it will give us the value of hte land right now.

Mr. Fisher: This property that I speak of in Chicago, is producing more of a revenue in Illinois than anything else. And if there is anything in Dakota that is like to become as valuable as that property on Dearborn street in Chicago, I am willing to help pay for it. The city of Chicago never did a wiser thing than when she reserved those lands from sale.

Mr. Ward, of Yankton: It is well that the city of Chicago did one wise thing with her school land , that is the only instance that can be cited—they threw away nearly all their school lands for a mere trifle. What we want to do is to realize on ours today; in twenty-five years from now we may be able to get along without it.

Mr. Proudfoot: When I was at the last Legislature the time was nearly all taken up by the investigation of these land laws. There is every opportunity for corruption and it will be better to sell the land.

Mr. Owen: I urge upon the Convention to look at that section very carefully. A wealthy gentleman living in Chicago last March, when I passed through the town said: Tell the people of Dakota to hold on to their school lands. There should be something left to the people hereafter. The officers who have this in charge can make provision for this property and they can lease it for such purposes as they shall see fit, that is our view.

Mr. Lowthian: I have been looking around to see if Grant county sent any body down here to watch us, and I have not found any body, therefore I move that we strike this section out.

By the Chairman: The question before you now is the motion of the gentleman from Yankton, are you ready for the question.

Mr. Miller: I am one of the members of the Committee who made this report. We not only believe in selling our school lands and asking seyen per cent., but I also believe in this section. Now there isn't a man on this floor who knows anything about farming lands, but knows that land that has been plowed is worth more than that which has not been plowed. I don't believe there is a farmer in this Tesritory who is going to take our school lands and use them up so they will not be worth as much as land that is not broken. I know that unbroken prairie land lying right beside land that is broken is not worth as much as the broken land; and I am in favor of this section as it stands.

I have tried flax, and some of the rest of you probably have, and made money out of it too; and my land didn't suffer any either.

I have the experience of the farmers in Iowa, who have raised flax; it has been witnessed that it is not any more injurious than other crops on their land.

I assure you, Mr. President, that they will not cultivate flax or anything on this land without he is satisfied that it is for his interest so do to.

Mr. Coffin: I want to reply to one remark of the gentleman; if I am acquainted with myself to any considerable extent, I am a farmer.

By the Chair: We will take that for granted.

Mr. Coffin: And have been a long time; that is my occupation, and none other. There is land in my neighborhood that has not been cultivated for three years that has been rented, and as a result we are full of foul seed,—wild buckwheat, wild mustard, button grass, fox tail, thistles. I do not think there is a farmer that is a farmer that will take the land and cultivate it for the land.

Mr. Miller: I would like to make an inquiry.

Mr. Coffin: You have had your say, let me talk.

Mr. Miller: I would like to inquire if there is any land in your neighborhood that has been worked by the man who owns it that is in that condition?

Mr. Coffin: That may be; but that does not apply. You take land where the owner is constantly looking alter it,—every man here who has ever rented land knows how difficult it is to get it well cultivated; how difficult it is to collect the rent and all that sort of thing; the man who takes the land will try to get all he can possibly out of it and return just as little as he can possibly; he will say, this is school lands, I don't care; he gets away from there, every thing is going down; the neighbors are annoyed by the foul seed he brings there; he is simply a curse to the community.

Call of "Question, question."

Upon going to a vote the amendment was carried and declared adopted by the Convention.

Mr. Neill: Moved that in line thirty-nine be substituted five for 15.

Which motion prevailed.

Upon call of division, the amendment was supported by a vote of 64 for, and five against.

Mr. Elfes: I would like to move the reconsideration of Section five.

By the Chair: The section was read but it has not been adopted in form; I have adopted the rule to read the sections and passing them assuming they were adopted.

Mr Elfes: In line 26 I move to amend by striking out "seven" and inserting "four".

By the Chair: I am informed by the Secretary that has already been done.

Mr. Elfes: I move the reconsideration.

Mr. Haines: If the gentleman will accept the suggestion; if a motion for a substitute is in order I move the word four be stricken out and six inserted.

Call of question.

Mr. Moody: It is only a question of form; it strikes me, however, the President is incorrect to sustain it as proper to reconsider to strike out "four" and insert "six" because that is the same identical question that has been passed upon,.

Mr. Edgerton: I would like to know by striking out "four" and inserting "six",—I would like to have the gentleman tell the

Convention, if he believes the investment of these in South Dakota could be made to realize more than four per cent.

Mr. Haines: In the most respectful manner I wish to state my reasons.

In the first place I fail to understand the argument in favor of reducing the rate of interest to four per cent., myself. Secondly: I desire that the House shall consider the question a little more fully.

Now, the argument as I understand it, for reducing the rate to four per cent. is that we can not invest in United States bonds, or State bonds at any higher rate. I am unable to see the force of that argument for this reason; first; the United States bonds are limited in amount. Very soon, according to the rate of redemption, they will be unobtainable, as every officer knows. The question is agitated at every meeting of the bankers of the nation and discussed through the journals "What shall be the basis of the banking system at the time soon to come?" because the basis is being swept out by the rapid liquidation of the public debt. The provision is that the State debt shall not exceed five hundred thousand dollasr. Now, then, are we to be limited to these two funds? If we are, we will soon have to let our money lie idle for want of investment. The argument is that we can not invest in farm property because it will create rings; is there any possible way which would be less likely to create rings than by leaving three-fuorths of the purchase price in the lands? But if we are afraid of rings, are we not inviting the same danger for the three-fourths that remain in the lands that we fear exists for the one-fourth? If we are afraid of farm mortgages, then we ought to provide that everything should be paid in cash and nothing left in the farm lands. Suppose I were the owner of these lands, would I sell at the rate of four per cent. interest? I spoke before as to the correlative proposition as to the minimum price at which lands should be sold, and I said that if the interest were lowered the price of the land ought to rise; not because I believe $15.00 was a practical minimum, but to bring out the sentiment of the Convention, which I think was quite fully expressed, to this effect, that the lowering of the rate of interest to four per cent., did not practically raise the price for which lands would be sold at all. I do not believe it would seriously enhance the price of the land which would be sold. Now look at it as a man who has land to sell; I would not offer land for sale at four per cent., because I am satisfied we can get just as much for our lands and keep just as good a permanent principal as well, at six per cent., as at four.

The state of New York, that great reservoir of capital in this country, has reduced its legal rate from seven to six; it has been reduced to six per cent; that is the sense of that great common wealth upon the value of money. Shall we, in this new country, say that our public funds shall go down to four per cent.? It seems to me there is no good argument in favor unless I misunderstood the force and gist of what has been said. Now, I have no feeling about this at all; it is a mere question with me, what is best for the fund.

Mr. Edgerton: I will endeavor to answer the gentleman. In the first place he says there will be no United States bonds after a little time; perhaps that is so, but the fact that the Untied States three-per-cent. today commands a premium is an evidence, almost conclusive evidence, that first class securities at long time can not be found at a higher rate of interest than three per cent. It establishes the fact that long-time securities of the first class, can not be obtained at three per cent, I am not particular whether they are invested exclusively in United States bonds and in Dakota bonds, but I apprehend that for the next ten years Dakota bonds will absorb all of our surplus school funds. The moment you do that you place our own bonds, of whatever character they are, at par, at least. That has been the experience of other states. There is no danger that the people of this whole state will ever refuse to pay the interest on a fund of this character when invested in their own State bonds.

The second argument, if I understood the gentleman, is this; that there would be the same danger for the balance of the three-fourths that is not paid in cash that there would be for the investment. Now, if one fourth is to be invested over the State in farm mortgages or any other mortgages of the State, with some one—one individual or a number of individuals; they have to make the investment; they have to make the loan, and they select between my friend from Turner and myself to see who shall have the loan on his farm—on his homstead. Perhaps my friend from Turner may be able to control more local influence than me, and he gets the loan; where is the one-fourth. The three-fourths that is left, why that goes to the highest bidder; everybody comes into the open market; it can not go less than ten dollars. Place the minimum at twenty dollars; it is not sold even for twenty dollars. My friend bids twenty-one; I bid thirty; he bids forty, and another gentleman takes it at fifty. Consequently there can be no possibility of a ring except through absolute fraud of the persons that sell the land.

It is said that New York has reduced her interest to six per cent. This is true, but it is on short loans of sixty and ninety days. I am informed by a gentleman on this Convention floor that New York went into the open market and that she paid less than two per cent. for her bonds. I am informed that New York bonds can not be bought in the market today for two per cent. I have no particular desire whether this should be distributed in farm mortgages or whether the interest be high or low, but I have a desire that the Constitutional Convention should so guard that fund that there will be no possibility of its ever escaping. I say, with Dr. Ward, that I am anxious that we shall have a fund for the education of the children of the present generation. I am in favor of four per cent. for the reason that I think the gentleman has failed to point out where it is possible for first-class securities on long time to get any more than four per cent. If that can be done why I will say that I will take more than four per cent. Here is another question that we have got to meet; that is, that a portion of this fund will be tied up.

(Cries of "Question", "question".)

Mr. Owens: Mr. Chairman, I invite attention to the proposition that is before us. There is no proposition before us concerning the investment of the funds received from the sale of school lands. The investment of the funds comes on in Section 11. I favor the proposition now before the House; that is, that the minimum of interest when we sell these lands shall be six per cent. But this should be borne in mind, that these government bonds that are sold at such a premium pay no taxes. If money is not worth but three per cent., then such great corporations as the New York Life Insurance Company, worth a hundred million dollars, must be making a great mistake when they base it upon four per cent. If there is anything in this argument of four per cent. it is because it is looking away forward into the centuries to come.

Judging the future by the past, we may fairly presume it is probable that we shall want to amend our Constitution before the next thirty years, and if we should make a provision here which is not applicable thirty years from now, we can then change it. The first constitution of Illinois was adopted in 1818 and ten per cent. was the legal rate of interest; and now the maximum is eight per cent. They found necessity to amend; we shall amend it in Dakota. Now, can't we have six per cent? As the gentleman says, I want some money to educate our children with now.

Mr. Moody: The gentleman from Turner, upon whose judgment I greatly rely on questions of finance as well as law, has called my attention to this, and I have taken the liberty of addressing the Chair a word or two on this subject.

It strikes me that the President of the Convention has another thought in his mind from one that is connected with this question. Now, the question here is simply this: At what rate of interest, as the minimum, will the lands be likely to bring the highest price? In other words, how will we be able to get the most money out of the school lands? The gentleman from Turner claims that when lands are sold, the purchaser will buy just as readily upon an agreement to pay one-quarter cash and the balance on time at six per cent., as he will on time at four per cent. Now, the common observation of men in this country is that such is the case. Men will purchase at six per cent. just as readily, ordinarily, as they will when they buy at four per cent. It make just fifty per cent. difference in the income. Now, let us make a little calculation; you propose a period of credit not less than fifteen years; your legislature will go to the minimum; you may be sure of that; there will be such a pressure for the purchase of these lands upon your legislature that they will go to the minimum rate of interest and make that provision; you provide a credit of fifteen years; you sell one-quarter; now, how much do you get at the end of fifteen years? You get 25 per cent. to start with, and you get about 56 per cent. besides. You do not get at the end of fifteen years, at four per cent. interest the par value for which you sell your lands. You get four per cent. upon three-fourths, and 25 per cent to start with, but getting the use of the 25 per cent., and calculating at four per cent., as is anticipated, you get 25 per cent. to start with and sixty per cent. by way of interest, lacking 15 per cent. of being the par value of your lands.

Mr. Moody: Now, we have just heard that a lease of fifteen years of these lands would totally annihilate them, and render them worthless, or many of them. A man who purchases, pays 25 per cent. to start with, and 60 per cent., then fifteen years at 4 per cent. per annum. Now, I can see how it is going to reduce the income between 4 and 6 per cent. so far as the interest is concerned. It is not any investment. Now, according to this the State sells to A. 160 acres of land at an appraised value or purchase value, and then he agree to pay one-fourth, and the balance at 6 per cent. on 15 years' time. Now, you and I don't buy our lands, or anything else, and we will not be likely to do so for the next 15 years. It seems to me that we are making our maximum so low that the Legislature will take advantage of it.

By the President: The question is shall the word "four" be stricken out and the word "six" inserted.

The motion is lost.

Division is called for, and the vote stood 35 for and 45 against.

By the President: The question now is upon the section as amended. If there are no objections, it will be read as amended.

The same was done.

By the President: If there are no further amendments to this section, the Secretary will read.

Mr. Campbell: Is it adopted, Mr. Chairman?

By the President: We have adopted all of the sections.

Mr. Campbell: I will just make a motion to adopt that section.

The motion was carried.

Section 10 is read and adopted.

Mr. Ward, of Yankton: Mr. President, I would like to offer another section by way of a report, on the same subject.

By the President: You move that as an additional section?

Mr. Ward: As an additional section.

The section was read and sent to the Secretary.

A motion to adopt the same was carried.

By the President: The section will be incorporated as one of the sections.

Section 11 is read.

Delegate: I move to strike out in line 41 "first mortgages upon good improved farm lands within the State." I think that this proposition ought to be adopted.

By the President: The gentleman proposes to strike out the words "first mortgages upon good improved farm lands within the State."

Delegate: What is the section, Mr. Chairman

By the President: Section 11, lines 41 and 42.

Delegate: Do I understand, Mr. Chairman, that you intend to strike out the word "only"

Mr. Edgerton: No, sir.

By the President: Leave the word "only" in.

Mr. Ward: I think it would be well for us to know just what the gentleman intends to strike out. We do not want to be confined to anything.

Mr. Ward, of Hughes: I think it would be well for us to know what is to take the place of what the gentleman desires to strike out.

Mr. Edgerton: There are some members here who ought to know what the probable indebtedness is, including our public institutions.

Mr. Campbell; The proper debt of this State is half a million, that, I understand does not include the funds for public institutions, for which the honor of the State is pledged.

Mr. Kanouse: I have just a word that I desire to offer upon this subject of school funds. There are times when party strife runs high, when blowers and strikers are in demand, and if I am a Republican, and the Republican party is in power, I loan to those in our own party to secure the services of men in the political strife; I loan only to blowers. But if I am of the Democratic party, I keep still because I want to sip out of the same dish that the Republicans do. And in this matter, I believe you will find that you have in your state a pile of mortgages, such as was unearthed by the Secretary at Washington, which had been loaned out to these blowers, and they were hardly worth anything; the result is, that there is a state tax paid in to make up for the school fund that was squandered. We cannot afford to open the door to that sort of use of our school funds; we cannot close the door too tightly upon it. The parties who hold this fund, hold it nominaly as a sacred trust and against the possibility of its being used for political purposes. I am opposed to anything which has a tendency to drive the capital out of the country. Our farmers are compelled to pay 12 per cent. interest per annum, and we loan our money at 4 per cent; I am opposed to all such legislation. It is a fact that we can throw around our officers such a law, and I understand that we have already drawn pretty closely, because we have thrown around them a guard that means the penitentiary. Wisconsin has made a very great mistake in loaning her money; we don't expect to do any such thing. I came from Iowa and I know that money on school lands has been loaned and not a single dollar has been lost, it was loaned out by the official men of the county, but it had no safe-guards around it as are around this. It seems to me that with the safe-guards that we have around our official men, men occupying office, it is perfectly safe. The gentleman who has brought this bill before us wants to loan our money at four per cent. interest and then turn around and pay with the same money 12 per cent., which is the legal standard in Dakota.

Mr. Coniff: While there might be some ring in loaning on farm property, this resolution would be jumping out of the frying-pan into the fire, but instead of having a little ring on farm property we would have a bond ring.

Mr. Fisher: Yet you say this measure could go through without injury. I am prejudiced against striking out these words, the money invested in farm loans does not apply to that invested in bonds. There are more than a dozen states in the Union that have repudiated their bonds, and Minnesota has only just fixed up a matter that has been standing twenty-five years. I call the attention of the gentleman to one state in the Union, and that is the state of Indiana; it is better provided with school funds today, than almost any other state—they were sold to the people and the balance was allowed to stand as a mortgage against the property; and the school fund of Indiana is the best school fund of any state in the Union. I think that the property of this country, in Dakota. should be secure. Men who reside in Scotland and England have money here and we should take care of that, and I believe that we are perfectly safe in leaving it to the discretion of the officers of our people.

Mr. Edgerton: Have not bonds that are named here as fixed a value as a twenty dollar gold piece? Minnesota bonds have been at par ever since I can remember, except certain railroad bonds.

Mr. Fisher: Supposing your Commissioners are allowed to buy up these bonds, what are you going to do then.

Mr. Edgerton: I don't ask to buy Minnesota bonds, I don't want them. You cannot buy one of her bonds, they are not in the market; her school fund absorbs them.

Mr. Coffin: I was a little afraid to offer my views because I feared I would not be heard, but I feel a little more encouraged now. I have held school bonds from another state, and I didn't come from Oshkosh either, I didn't come from Wisconsin or any place where the plan was a failure. But I do know a plan that is a success—it is where the lands were sold and appraised, a portion of the money was paid down and a mortgage taken on the land for five years, and that mortgage can run as long as the man keeps up the interest and then when he paid it in this money went into the hands of the county commissioner, and they had charge of it; it is now under the supervision of the county superintendent of schools, who is required to keep a book, or report which shows the condition of the fund.

I have never known of a single, solitary loan being lost. The loans are approved by sworn commissioners who are disinterested and who are respectable men, and they are held responsible for the appraisment they make on the lands, and then the loans are to be made upon the lands at not to exceed one-third assessed valuation; so it is so tied up and bound up with legal appraisements, and has to go through so many men's hands it must be a most unaccountable system of fraud before it is possible to reach it.

In those sections they are drawing seven per cent. today, and drawing it promptly, and get the benefit of it.

Mr. Ryan: I wish to say; being somewhat familiar with these loans in the state of Iowa; I was a member of the Board of Supervisors in one county a number of years; in Iowa that fund was apportioned among the different counties of the state, and the amount charged up to the county, the county being made responsible for the amount; the money was loaned out among the farmers on farm property at eight per cent. interest; the County paid the State six per cent., leaving two per cent for taking care of the money. The county was held responsible for every dollar that went in there to be loaned out. We never had any trouble; never knew a dollar to be lost.

The amount to be loaned was at one-third the assessed valuation of the land; in addition to that the party borrowing the money had to get the note signed by two men in town testifying as to the amount they were worth.

I am not in favor of taking this money for investing in the states; I know of some states repudiating their indebtedness; I know farm securities are just as good as states' securities.

Mr. Wright, of Brookings: There are several millions of money being invested in Dakota real estate loans. Every million which is invested calls for one hundred thousand dollars interest annually. If we invested our millions of school fund here at home at four per cent., we will reduce the difference between one hundred thousand dollars and forty thousand dollars per annum, which is sixty thousand dollars per annum, which is a sum we might just as well save to our people to be re-invested at home.

Mr. Haines: If we insert this provision we are responsible for it. This is a financial question.

The query occurs to me, Mr. President, whether we are any better off to go outside of the State as has been suggested by the gentleman on my right, and invest any part of our funds.

I think not for this reason; we have not thought enough about this rate of interest.

Now take for instance the sum of five hundred dollars loaned for fifteen years at four per cent., the limit outside price we can get for it in first class state, even United States bonds (probably an over estimate, rather than an under estimate) in fifteen years we get three hundred dollars interest; many of our people would be glad to take these moneys at eight per cent. At the same time, it would make the interest, six hundred dollars; just double.

Now, after taking the sentiment of the Convention, and a number of the Committee (I have not been able to consult all of them) it is suggested that perhaps the Convention had better refer this matter back to the Committee. If it is the sentiment of the Convention we can trust Dakota farm mortgages, provided some other safe course,—for instance if the plan would be approved of apportioning this school fund among the counties of the State for investment upon some proper principle, then hold each county liable in its corporate capacity for every cent of the principal and the annual payment into the State treasury of every cent of the interest.

Mr. Edgerton: I will withdraw my amendment; I think that is a very wise plan; all I ask is that it be guarded. That it goes to the Committee for re-consideration.

By the Chair: The amendment is withdrawn; the question now is upon referring it back to the Committee.

Which upon motion was carried.

Mr. Neill: I move that we do now adjourn until half past seven this evening.

Which motion prevailed, and recess was taken.

Convention called to order at 7:30 p. m.

By the President: I think the report of the Committee on Compensation of Public Officers is now in order.

Mr. Britton: I don't think we had finished with the report of the Committee on Education and School Lands.

By the President: I believe it was referred back to the Committee.

Mr. Potter: Mr. President: If I am in order I would like to report back from the Enrolling and Engrossing Committee the reports which we have had under consideration: "Corporations other than Banking and Municipal"; name, boundaries and seat of government, county and township organization, as amended which are now properly enrolled and engrossed.

By the President: Referred to the Committee on Arrangement and Phraseology.

Mr. Dow: I would like to ask the privilege of introducing a resolution at this time.

Read by the Secretary as follows:

"Resolved, that the Secretary be instructed to furnish for the use of the members an alphabetical list containing the name, county, and postoffice address, etc., of each member of this Convention."

By the President: Referred to the Committee on Miscellaneous Subjects.

Consideration of the report of the Committee on Compensation of Public Officers.

Section 1.

Mr. Coffin: Mr. President: I do not know how much pay a judge ought to have, but if the salary fixed here is sufficient for the time required and the labor to be performed to qualify a man for judge, it is not much. Judges of the Supreme Court to get twenty-five hundred dollars; judges of the Circuit Court each to receive the annual salary of two thousand dollars; it seems to me that as little business as there is in Dakota, a very few lawyers would be willing to leave the bar for these salaries; I would like to have the salary sufficient so that a competent man would be secured; and, in order to bring this before the House and to see what the feeling is, and feeling as I do that a competent man should be properly compensated, I would move you sir, to increase each and all of those salaries for judges, five hundred dollars per year. I believe it just and right. (Seconded.)

Mr. Brookings: I am glad that that came from a farmer! He thinks that they don't receive pay enough; how much pay does the poor farmer receive for 365 days' work? These judges don't often have over 200 days' work in a year. How much does the farmer earn in his 365 days? Does he receive $2,000?

A Voice: No, nor $300.

Mr. Brookings: If they receive but $300., tell me why any man is worth more than five times as much as these working people?

We are sometimes complained of because we are politicians, perhaps; and seeking offices, and all these kind of things; the truth is that it is the very farmers themselves that put their foot in these traps. In my native state the judges receive $3,000. and there are but five to take care of the work of the whole state. Why, you have one in each county. John A. Tinker, one of the ablest lawyers in this country, resigned a seat in Congress to accept a judgeship at $3,000 a year. In Maine there is a salary of but a thousand dollars paid the Attorney General. Does it cause the election of little men? Let us look and see. Clifford, when he was appointed Attorney General under President Polk, was appointed when he was holding the Attorney-Generalship of Maine. Do you suppose he was a little man? Don't you suppose he was nearly as able as many of the lawyers in Dakota? He didn't have a sinecure, he had to work. The Attorney General of Maine has to try every capital case in the whole state; in every county. You work under an attorney general that rides around the Territory with a pass on a railroad, costing him nothing; tell me how he earns his money? Tell me if it is just, when these poor farmers have to pay sixty per cent. interest to get some little shack, some little farm started; is it just? I say to tax those men to start such sinecure offices is hardly right; I believe not. I don't believe in that. I know it will be held out that I am showing up these salaries from a state that is sterile and barren. Go look at that state; it is not a state of millionaires and poverty. I know of a little farming town in that state, of 1154 people, in which the farmers have in a single savings bank, one million and a half dollars. The farmers are able to save something there. Take the salary of Governor; it is but $2,000. Go and look at their Governors, look at their judges; look at their officers, gentlemen. Can any of you tell me where a county treasurer or a city treasurer of Maine ever embezzled money and fled to Canada? It is the small salaries that get the good, the honest, the intelligent and the worthy men; it is the big salaries that get the politicians that run away with the money. Now, Mr. President, I am not a farmer; I am not a man that labors with his hands, but I wish that the rich and the poor were nearer together; I wish that every man had to labor for a living; not all of the time but a portion of the time. I wish that all could have a portion of the time to read and converse and cultivate their minds. For that reason I am opposed to high salaries.

Let us step to Michigan; isn't Michigan a flourishing state? Is there anything you can find fault with there? Now Michigan, her Governor gets one thousand dollars a year. That is not down eastern Maine, nor New Hampshire nor Vermont; but the flourishing state of Michigan, and there your governor gets a thousand dollars a year, and the judges get $1500. a year. Do you suppose that all the judges of Michigan are little; small men, away down below the lawyers of Dakota? I hardly believe it. I don't know exactly, I have not looked to see what the salaries of the judges of the Supreme Court of Michigan are, but the circuit judges get but $1500. a year, and gentlemen tell me it commands the best men.

Ohio, when she started out she started with only $1000. I can take you to the statutes of Ohio and show you that they had not, prior to 1860, a salary of more than a thousand dollars. In Kansas the salaries started out that we have put at $2000. and $2500., they started out at $1500.

Now, you say you can't get good lawyers. How many lawyers will stand up in this assembly and say that he earns over $2000 and $2500 a year? But very few. Why, 25 years ago I read law with as good a man as Senator Fessenden—one of the finest logical minds this country ever had. Their business was worth five thousand a year, and they worked a good deal harder than these judges will have to work. The Attorney General's office, in my remembercnce was held by George Evans, of Maine, and George Evans has hardly had a superior in this country as a lawyer or a man of great intellect. About obtaining good men, if you want good men you are more likely to get them on small salaries than on high salaries.

Bartlett Tripp, who, unless it may be Judge Moody, stands at the head of the bar in this Territory; Bartlett Tripp is now seeking the place honored by our honored President when his time expires in November; he is willing to step down and out of one of the most lucrative offices and take a territorial judgeship which is worth only $2500. a year. There is no one of these judges that has felt disposed to resign—not one of them—because the salary was too low; they were all willing to keep it. There is a kind of an honor and dignity that goes with it; there is honor and dignity connected with such propositions; and besides, a man is doing a pretty good business when he earns $2000. a year. Now, I want to say to you, gentlemen, that I am not so particularly tenacious over these salaries. I have shown you the situation of things. In the future money will be more plentiful than in the past. You can buy goods today in this country cheaper than ever before, and they never will be as high again as they have been in the past. We have manufacturing establishments now and machinery enough to always manufacture more than we can consume; more than we can consume in this country or anywhere, if they are constantly kept running. What is true of us, is true of the world. It is said that

England can accompilsh more than all the rest of the world. Looking at it in that light, are not the salaries high enough? I have known county treasurers to go out and spend not less than $1,500 or $2,000 to be re-elected.

Mr. Coffin: I am not particularly anxious to pay anybody a big price for anything. I am not a candidate for any office; I was not a candidate to come here, and I don't know how much some men make out of practicing law. It is quite likely that there are a great many lawyers not making anything. But I do not believe that we should ask a good lawyer to assume the position of judge for less than $3,000 a year. I do not see why if a man performs judicial work, I do not see why he should not be paid reasonably. But as far as the place of judge is concerned, if he gets nothing but $2,000 a year, his district will be large, and he will have a great deal of traveling to do, and if the rules as we have laid down are enforced, he can not ride on a railroad pass; he will have to pay his fare and hotel bills. Now, I am willing to pay a man reasonably for his work. I want to be just and right. If I hire a man to do a day's work, I want to pay him for it. I want to be just in public and in private. If I hire legal counsel, I am willing to pay for it. If a man is elected to an office he should be paid for his services. Now, the gentleman from Minnehaha mourns a great deal about farmers working hard, and making but a little money. Now, there is not a farmer in Dakota, who does not make more than $3,000 a year. A man should not be a judge unless he has the capital requisite to making him a judge.

Mr. Brookings: That is just where I agree with the gentleman.

Mr. Coffin: In making himself competent to be a judge he should be vested with the same capital that he might have in business, and a man who has not that capital, he is not fit to be a judge. I am not a candidate, and don't know that I ever shall be. I am not advocating any one for the office, or anything of that kind. I will do just as I think about right. I am not competent; I am not eligible for that position; never expect to hold any office. My motives are unselfish.

Mr. Brookings: The gentleman says that a judge should be possessed of capital. It is not necessary for a judge to have any money, but he should have some brains.

Mr. Coffin: That is the capital I speak of, as the gentleman well knows.

Mr. Brookings: I will just ask Dr. Ward what he pays his professors in the Yankton college. I think they are just as competent in their line, as any lawyer is to be a judge.

Mr. Ward: I will say a word on that. That the pittance we can pay them is only about half of what their services are worth. And I do not think that the cases are at all similiar, for they are putting in their lives for a cause, and for a principle, which you can hardly expect public officers to do. They are looking for their reward in a different way, not that we have not public officers that do their work conscientiously, but the two cases are not parallel. While we are paying these small salaries, we are anxiously looking for the time when we can get into a position to pay them something nearly what they ought to receive.

Mr. Stone: I see that the salary of the State Superintendent of Public Instruction is $1,500, and I submit if that office is not more important, or just as important, and he should receive just as much compensation as a judge of the courts.

Mr. Brookings: I want to pay them a little more, but I am only one here.

Mr. Fisher: The time has been when the farmers needed protection against corporations and corporation lawyers, but I think the tables are turned now, that the lawyers need protection from the farmer. Especially when we hear so much said in favor of the farmers by a man who has never handled the plow handles.

Now, I have been a farmer ever since my boyhood, and ever since I came to Dakota, and I think that this question of judicial salaries should be settled. I for one, am not talking for political capital. Now, in my opinion, if an attorney has spent years in college, and spent a great deal of money, and a great deal of time, that is his capital. This is his capital invested, and it is the one referred to by Mr. Coffin. Take for instance the capital of a business man. He invests it because he may have an income the same as capital invested in any other way.

We have provided for six districts, and they are very large districts. We have prohibited in this Constitution any of these judicial officers from riding on passes. These districts are large. Now, it is necessary that the judge should go over his circuit, a large district once a year, or twice a year. Some of these trips will be more than 300 or 400 miles, and some of them may be less. He will have to go to a hotel. No hotel in the country will charge less than $1.50 a day. His necessary expenses will not fall far short of $1,000 yearly. Besides that, it carries him away from his home, and all who have traveled very much, know how it is to be away from home. When his expenses are paid he would hardly have as much left as one of your clerks in the various stores, who remain at home all the while. We can not get good men, well versed in law, to accept the positions at such salaries. There are others less competent that will; I think there ought to be an additional restriction, that we shall increase the salaries from time to time.

Mr. Haines: We are just starting out, and I think we want to practice a little economy, like the State of Iowa, where they pay their district and circuit judges $1,800 a year. Why, there are attorneys there, among us, including our most eminent lawyers, that would like to take the place: Mr. Hughes, who had a practice of $8,000 a year, is trying to be elected judge. And it is so all over.

Mr. Owen: After this matter is disposed of I desire to introduce an amendment that all these officers receive five cents a mile, at that time I desire to be heard.

Mr. Meyers: I have done considerable business in my life, I have done some at farming and I have come in contact with most all classes of people, and I believe in being fair to all men, and at the same time to protect the people. When we pay two thousand five hundred dollars a year, is it not extravagant, is it not as much as most men could make, men who would be competent to fill such a position as that. But we do know that the position will be sought for by just as competent men at one thousand five hundred dollars as at twenty-five hundred dollars, and I think for the present that is sufficient; when we are older we may be able to pay more. The idea of paying these great salaries when a great portion of the Territory, that is the people of the Territory, are living in dug-outs and sod houses. There is time enough in the future, when we are older and can better afford to pay these high salaries.

Mr. Fowler: I believe that the supreme court judges and the circuit court judges should receive the same compensation, for the reason that in the latter case, the circuit court judges are absent from home nearly the whole year, and therefore entail quite an expense in the shape of board. Now but a word in regard to Michigan. Michigan has amended her Constitution and instead of paying her Governor the pittance of one-thousand dollars they pay him four thousand. Instead of paying the judges of the Supreme Court one thousand five hundred dollars they pay him four thousand dollars.

By the President: It is moved that in line 2, two thousand five hundred be stricken out and one thousand five hundred be inserted.

The motion is lost.

The motion to strike out, in line 3, two thousand and insert three thousand dollars, is lost.

A motion to strike out, in the 5th line, the words two-thousand and insert two thousand five hundred is lost.

Mr. Conniff: I move, in the second division, at the end of line 15, to add the words five hundred, with reference to the salary of Attorney General.

Mr. Brookings: The salary of the Attorney General is actually more than the judges. They are not occupied more than one hundred days out of the year. The Attorney General has scarcely anything to do. The very name adds much to his profession. Gordon Cole and Cornell held the position as long as they could. And as far as that office is concerned it is one of the best paid offices we have. If the Attorney General in Minnesota can afford to serve for one-thousand dollars they can afford to serve for that sum here. I hope that they will not amend that; I think we should increase the salary of the officers of our public institutions.

It is moved to strike out one thousand dollars in line 15, and insert one thousand five hundred .

The nays have it, the amendment is lost.

Mr. More: I move to amend this section by inserting in the thirteenth line, after the word dollar, the following words, "and Commissioner of School and Public Lands shall receive a salary of two thousand dollars, annually." That was provided for in the report of the Committee on Executive and Administrative Affairs, but I don't see it here.

The ayes have it, the amendment prevails.

Mr. Jessup: I move to strike out in line 14, one thousand five hundred and insert five thousand. That the Superintendent of Public Instruction shall receive an annual salary of five thousand dollars.

The vote stands 27 for and 43 against.

A Member: I move, in line 14, instead of one thousand five hundred the words one thousand eight hundred be inserted.

Mr. Jessup: It seems to me that office is one that will be sought, and that we will not be obliged to pay such a high salary.

Mr. Brookings: In our University I don't think there is one who receives a salary of over fourteen hundred dollars; I don't know but some receive fifteen hundred dollars, and it seems to me that a salary of eighteen hundred dollars would be sufficient. I know that in Wisconsin the County Superintendent receives a salary of two thousand dollars, and the idea that a state the size of Dakota, and having school lands equal to the whole state of Massachusetts should pay our Superintendent of Public Instruction the little sum of eighteen hundred dollars, I think it is too bad.

Mr. Ward, of Yankton: I should not think of putting a man at the head of this instruction system to whom we could not pay more than two thousand dollars, for I certainly think he ought to ask more than he spends in going and coming as he is obliged to do in the interests of the institution. This is a matter of great importance and calls for the best class of men that we have; I will not except the judges, and the men that can be had for that place are by no means so numerous as those of the bench; it is a very limited class that such men can be drawn from, and the man that's fit for that place can always command a much higher salary. And the State certainly ought to be able to do as much for its educational interests as private institutions can do.

Mr. Myres, of Spink: If I am not very much mistaken, the Superintendent of Public Instruction has more traveling to do; has got more work to do than the Judge; I for that reason, move to amend the amendment, making it $2100.

Mr. More: I second that amendment most heartily.

By the President: I think that is the proposition we just voted down.

By a vote of 38 against to 29 for, the amendment was lost.

By the President: The question recurring upon the amendment first odered to strike out $1300 and make it $1800, what is the will of the Convention?

Upon going to vote, the amendment prevailed.

Mr. Corson: I move that the section as amended be adopted.

Duly seconded.

Mr. Owen: I move that in line 119, we amend it so it will read, but they shall be allowed five cents per mile for necessary travel in the discharge of their duties.

Mr. Stone: When speaking of the question of Superintendent I stated that I had never seen a county superintendent up in our county. I approve of this section with regard to mileage. The officer is wanted in all parts of the state, and I think that provision ought to be made for his expenses in going to and from the parts of the State where he is needed.

Mr. Fowler: I oppose this proposition; I think the salaries are high enough; it is true it may not be practicable to procure a judge, in the far west for that salary; I think it will be. But then there is no doubt in my mind but our friends in Eastern Dakota can send us one.

But it is neither here nor there. I am in favor, Sir, if the salary already fixed upon is not ample, to fix a salary that is ample, that is adequate for the services that are to be performed. Such that all public officers who perform their duty can live upon, and not leave it in the discretion of the officer to make out and send in a bill for five cents a mile for travel; leaving open an inducement for the officer to perjure himself; do not tempt a public officer to be dishonest; give them what their services are reasonably worth.

Mr. More: I am of the opinion that suggestion is a good one. Let the people understand better than to elect a class of men that can be tempted by five cents a mile.

Mr. Neill: This question of mileage is a very serious one. While I have not studied it very deeply, it occurs to my mind, that there should be an allowance for expenses, say not to exceed one-third of the salary. I propose this amendemnt.

Mr. Brookings: What I want to say is, is the Convention going to put into the Constitution that nobody is to receive passes that is holding office?

Mr. Owen: Pennsylyania has done it; California has done it; why not?

By the President: The amendment to the amendment that he shall receive five cents per mile for travel, is that it in no case is to exceed one-third of the salary.

Upon call of ayes and nays, the amendment to the amendment is lost.

The amendment offered by the gentleman from Kingsbury, was upon passing to vote, declared lost.

By the President: The motion of Judge Corson is that that the section as amended be adopted by the Convention.

Which motion prevailed, and the section is adopted by the Convention and referred to the Committee on Engrossment and Enrollment.

By the President: The report of the Committee on State, County, and Municipal Indebtedness is now before the Convention for consideration.

Sections one, two and three are passed without amendment.

Section four read by the Secretary.

Mr. Moody: I move to strike out the word "not" in the 28th line. Seconded.

Mr. Moody: I do not think five per cent. over and above the indebtedness already incurred ought to be allowed.

The amendment proposed by the gentleman from Lawrence is adopted by the Convention.

Section five is read by the Secretary.

Section 5.

A Member: I move to add the words to the bottom of this section that are found at the end of Section 2: "Until such debt be paid." There is no reason why the statute should not be repealable at some time or other.

(Seconded and carried.)

Section 6.

(Passed without amendment.)

By the President: If there are no further amendments, it will go to the Committee on Enrollment and Engrossment.

By the President: Report of the Committee on Municipal Corporations.

Section 1.

Mr. Wright, of Brookings: I would correct an error; in line four the word "such" should be inserted between the words "no" and "corporation". In the fifth line insert the word "any" between "have" and "powers".

Section 2.

Mr. Corson: I move to strike out Section 2. (Seconded and carried.)

Section 3.

Mr. Wright, of Brookings: Section 3 of this report seems to be covered by Section 4 of the report just considered.

By the President: Do you move to strike it out?

Mr. Wright, of Brookings: Yes, sir; if I am correct, the other section covers the same ground as this.

Mr. Moody: It covers it more fully.

The motion was put by the Chair; division called for.

Mr. Wright, of Brookings: May I ask for the reading of the other section? I have not the other report upon my table and the pages are unable to supply it.

(The section referred to was read by Mr. Moody.)

(The motion prevailed.)

Section 4. No amendments proposed.

Section 5.

Mr. Wright, of Brookings: I would suggest a correction; "town or city" should be inserted after the word "village' in the third line.

By the President: If there are no other amendments this report will be referred to the Committee on Enrollment and Engrossment.

Mr. Owen: I would like to have Section 5 read, as amended, to see if the clerk (secretary) has it right.

(The Section 5 was read by the Secretary.)

Mr. Stone: I would like to inquire what is covered by the word "town".

Mr. Wright, of Brookings: Mr. President, I am unable to give any better answer than to simply refer him to the section of which this is a copy. This section was copied from the Constitution of 1883. Sometimes we used the term "town" and sometimes as "village"; and if either term is used it would do no harm.

Mr. Neill: I move to strike this out; I think it is clearly covered by the report of the Committee on Corporations, and I move to strike it out.

Mr. President: Do you insist on your motion?

Mr. Neill: I will withdraw that motion.

By the President: Referred to the Committee on Enrollment and Engrossment.

By the President: Report of the Committee on Mines, Mining and Water Rights.

Mr. Miller, of Hughes: These two last reports were referred to the Committee on Enrollment and Engrossment without action by the Convention.

By the President: It has been the uniform rule that when we passed one and no further action was taken on it, that it was adopted by the Convention.

Mr. Dow: I was going to refer to the same thing. We are in Convention and it seems to me that the report as amended ought to be adopted at this time, if that is the intention. I will move that we adopt the report as amended. (Seconded.)

By the President: It is moved that the report of the Committee on Municipal Corporations, as amended by the Convention, be adopted by the Convention. (Carried.)

Mr. Dow: I would like to ask the unanimous consent of the house to vote upon the resolution which I introduce tonight and which was referred; that it be called back and acted upon at this time. I move to suspend the rules. (Seconded and carried.)

Mr. Dow: Now I move the adoption of that resolution.

(Resolution read by the Secretary.)

Mr. Dow: The object of that resolution is this; since I have been here I have been asked a great many times, on the street, and in various places, if such and such a man was here. I says: "Well, I presume he is, but don't know". I had no means of knowing whether he was or not. And now when we get home we would like to know the adresses of these members here. I may want to write to one of them and you may want to write to a different one, and we have nothing that will show either the names or the postoffice addresses.

A Voice: What do you want of the "so forth"!

Mr. Dow: I just simply wish a sheet containing the name, county and postoffice of each member. That "so forth" you can do as you are a mind to about putting it in. (Carried).

(Division called for).

Mr. Owen: That is using the public money for private purposes.

Mr. Moody: Mr. President, it was a division of the question that was called for; the gentleman wants a division of the question, so that we can vote on that "and so forth"!

Mr. Fowler: A gentleman has suggested to me that the proposition should be amended so as to provide that the members of the Convention shall exchange photographs!

Mr. Dow: I move that we now adjourn. (Seconded; lost.)

By the President: The report of the Committee on Mines, Mining and Water Rights.

Mr. Owen: That has been laid on the tables.

Section 1 is read.

Delegate: I move to strike that section out.

Mr. Fowler: Now, I do not think for a moment that it is advisable to strike this section out. I think it ought to remain. beileve that this State or proposed state should appoint such an officer as is named in this section, and then follow it up as provided in Section 2, by providing for the protection of the workmen to be employed in these mines, to see that these mines are properly regulated, and I do not see how this can be secured to the miner at work for a compensation per day except that the State take it in hand and protect him. We have protected in this instrument nearly every other class of men that need protecti n. Now, we do not protect these poor miners. Corporations need no protection. Let us protect the poor miners. They are working for almost nothing to support themselves and families, and a poor support it is. Now, let us see if these people can not have a good clean healthy place to work.

Mr. Campbell: I do not see any necessity for any such extraordinary office; if there is any such necessity for the office of Superintendent of Mines, as the gentleman states, let it be provided by the legislature. Give them authority to create such superintendent, if they desire.

Mr. Booth: I will say that when this matter was before the Committee, there was no doubt about the necessity of the office, and the only question that arose there was that probably it would be a sinecure, and he would use it for his own personal advantage, and instead of enforcing the duties of his office, that he might take to himself so much authority that nothing would be performed at all. Instead of this being an unusual and extraordinary method, it was taken from the Constitution of Colorado, which I think all will agree with me is a fairly prosperous mining state. And I think that this section ought to remain as it is.

By the President: All who are of the opinion that the motion shall prevail, rise and be counted. Contrary the same. The noes have it.

Mr. Moody: I did not suppose that this matter would be urged. I suppose that in the Constitutional Convention of Colorado, there was a Committee on Mines, Mining and Water Rights, who thought they ought to do something.

Mr. Booth: I would rise to a point of order. I would like to know what is before the Convention.

Mr. Dow: Mr. President, I would like to ask about the last motion. I supposed it was a motion to strike out.

By the President: Section 1 is before the Convention, instead of Section 2.

Mr. Moody: Now, I do not see any necessity for this office. I do not see any necessity for that provision in our Constitution. Of course, the section itself seems to be very good. It was copied from Colorado. Now, for instance, there should be established and maintained the office of Commissioner of Mines, the duties and salary of which shall be prescribed by law. If the words were "there may be" established or "the legislature may establish the office of Commissioner of Mining", there might be some sense in it.

Now, if there is anything that miners do not like, it is to have somebody come snooping around that have no business there. Why, look at it. Here is a prospector, pursuing his prospect, you will find that the advances are guarded with almost as much care, in many instances, as you guard your bank vaults. They do not want people to know their business or what they have got. They are in search of something. Perhaps they have struck something, and perhaps they have not. And if the Commissioner of Mines would come around there, I do not think it would be safe for him, because miners do not submit to these things with very much grace. There might be such a thing as a VACANCY IN THE OFFICE, though a miner is always a law abiding citizen in all instances, and never fails to obey the law, unless it is such a law that does not suit him, when he takes good care not to become familiarly acquainted with it. Congress has passed all the provisions that are necessary. Congress has passed provisions authorizing and justifying the right of eminent domain in favor of the miner. Congress has a right to do this, and these rules are established, and we could not repeal or modify them, except by consent of Congress. Now, if there is anything in the world which anyone dislikes, it is to be blackmailed. It is a tender subject, tender property. Some times it will pass; some times it won't. If you do this, it will be simply to do just exactly what is being done to the railroad companies. It has not been a great while since that was attempted. Published in a newspaper, published in the northern part of the Territory; there was an attack, traducing the legislature to provide a law; for the purpose of bringing these mining companies there with their barrels. They do not need any legislation, they do not want any legislation. They simply want to be let alone. Let Congress be all sufficient for that.

Mr. Brookings: I move to strike out that section.

Mr. Booth: ————

Mr. Brookings: I want to say one word. I do not desire to strike that out, if the Black Hills' delegates want it. As the gentleman has said let us protect these miners. But this can not be done by simple legislation in the Constitution. Let the Legislature protect these men, unless they do not need any legislation.

Mr. Fowler: Now regarding these mining companies; it is true my friend from Lawrence has one of the best. The laws of Congress do make ample provision for the mode of procuring title to these mineral lands. They have formed the necessary provision in that respect, and therefore we haven't touched upon anything that the laws of Congress have provided for; so far as mining is concerned we have let that matter severely alone. As to people going snooping around there that have no business there, that is another matter and entirely foreign to this proposition. We don't propose to send any such individual there, it is not the intention of this Committee or the proposition of this Convention. We propose to create an office, and if anybody shall go snooping around, as my friend from Lawrence has said, it will be a duly authorized officer, and in going there he will be only performing his official duty.

There is one thing that the laws of Congress have made no provision for, and that is the manner or mode of putting in the shaft, it provides that there shall be an air shaft, or that the mine shall be properly ventilated. We simply take up the subject and keep a care over the lives of the men who are working for a mere pittance, that they may be spared to their families.

Mr. Corson: I am not in favor of striking out the section, but I don't see the necessity of employing officers. This section might have been well in Colorado, but in a state like ours I think it should be modified. These officers and salaries of two and three thousand dollars seem to me entirely unnecessary. The next section is well enough, I think, they provide that the legislature may make all necessary regulation in these matters, and in case it is necessary to send some one out there for a month or six weeks, it might be done by the legislature; but to send an officer out there at an expense of several thousand dollars, who would have nothing to do, entirely unnecessary, and would be no earthly benefit to this state or to the miners.

By the President: The motion is to strike out the 4th section. There was a motion to adopt Section 1.

Mr. Brookings: I withdraw my motion.

By the President: But I understand that you moved to adopt Sec. 1, Mr. Fowler; am I right? Ans. Yes.

The nays have it, the motion is lost.

Mr. Moody: I move to strike out Secs. 2 and 3.

The motion is carried.

Secretary reads Section 4.

Mr. Stone: I move that that section be stricken out; I do not think that the educational provision at all necessary.

Mr. Fowler: We did have an institution which is provided for by the laws of our Territory, and I think it is well to leave the care of that branch of science to the care of the State.

Mr. Corson: I am opposed to striking out that section, in as much as the people are now being educated for the purpose of giving instruction in that branch of science, and it seems to me that it would be unjust to strike it out.

Mr. Jessup: Would it not be possible to have that put in in such a manner as would be satisfactory and under the direction of the Territory.

Mr. Corson: There is an institution of that kind and as it is paid for by the Territory it ought to be sustained.

Mr. Moody: I think so far as metallurgy is concerned in that western territory, we are all of one mind; it is desired that such an institution should be sustained, and that science should be taught because it is proper that it should be.

Mr. McCallum: I move to strike out legislative assembly.

The motion is adopted.

Mr. Miller: I move to strike out "shall" and insert "may'.'

The vote stands 19 for and 44 against.

Mr. Fellows: I move that we postpone further consideration of this report until tomorrow morning.

Mr. Moody: I move to adopt Section 4.

The motion is carried.

Mr. Fellows: I move that we postpone further consideration of this report until tomorrow morning.

Mr. Pendleton: I ask leave to be excused from further attendance.

(Motion to adjourn, carried).

By the President: The Convention stands adjourned until tomorrow morning at nine o'clock.

SIXTEENTH DAY.

September 23, 1885.

Convention was called to order at 9:15, A. M. and opened by prayer, by Rev. Mr. Huntley, (a member) as follows.

Infinite and allwise God, as we begin the deliberations of another day, we call upon Thee for wisdom.

We would not forget to thank Thee for Thy blessings of the past, nor forget the source from whence all our blessings flow.

This morning we would ask for a continuation of Thy blessings, that Thou would lead us in our duties and guide us in all our responsibilities. Give us wisdom and understanding, may our perceptions be quickened, may we be well prepared for the duties of the day; wilt Thou prosper the work of our hands; help us to bear well the responsibilities resting upon; prepare this people for the work we are here doing as their representatives; prosper it as it shall go out into their hands, and may it receive approval at their hands.

May it accomplish good for this State. Prosper us as we shall go before the Congress of the United States. May it find acceptance there.

May Thy blessing rest upon us as a people, and upon this whole Convention; bless us each one, as an individual; bless us as a body; guide us ever, and save us, for Christ's sake.

AMEN.

Reading of the Journal.

By the President: If there are not any corrections to be made in the Journal, it will stand approved.

Communications and Presentations of Petitions.

Unfinished business of yesterday.

Reports from standing committees.

Mr. Reed, of Sully: I submit the following report, and I would like to read it, Mr. President, if there is no objection.

By the President: No objection.

Mr. Reed read the report of the Committee on Revenue and Finance, and the same was placed on file with the Secretary.

Mr. Neill, of Grant: Mr. President, your committee on Printing beg leave to make the following report, and would like to have the matter discussed and settled at the present time, as it is a matter of current business. (Here Mr. Neill read the report referred to, which recommended the printing of 100,000 copies of the Constitution in newspaper form, and 10,000 copies of the memorial to Congress and of the Constitution, in pamphlet form, for the use of the Convention. The report was filed with the Secretary.)

Mr. McCallum: Mr. President, I move that the report be adopted. (Seconded).

Mr. Kellam, of Brule: I don't know, Mr. President, that I want to make any motion to amend that resolution, but it seems to me if we provide for the printing of this in the English language, there is a demand; and the same demand, that exists, for having a limited number printed in other languages, notably in German. I do not know how many ought to be in those languages, but I would suggest—well, I have no information upon the quantity that ought to be suggested, but I think there is necessity for an amendment, and some gentleman who has an adequate idea of the number ought to amend. I suppose the theory of the mover of this resolution is that a hundred thousand would be sufficient to furnish the newspapers of the State with a supplement which will inform the people of this Constitution. My idea was to amend that resolution. Perhaps 5,000 should be in the German language and 5,000 in the Scandinavian.

Mr. Tousley: Twenty-five thousand ought to be printed.

Mr. Kellam: I move as an amendment to the resolution offered by the gentleman from Grant that there be added to the number suggested in this resolution the number of 10,000 copies in the German language and 10,000 in the Scandinavian or Norwegian language. I mean 10,000 each of those supplements. (Seconded).

Mr. Neill: I would not like to accept the amendment for just this reason: It is a very expensive matter to translate that. It is nothing to run it off, but it costs exceedingly to get the translation—a correct translation. We can not get any estimate as to what it would cost, and consequently I don't feel safe in recommending it. (The motion carried.)

By the President: Reports from select committees.

Presentation of resolutions and propositions relating to the Constitution.

Mr. Stone: I move a reconsideration of the motion by which Section 2 of the report of the Committee on Name, Boundaries and Seat of Government was amended.

By the President: I think you had better wait until we reach the consideration of the reports of standing committees; it would take a suspension of the rules to do it now. We shall strike it in a few moments.

Mr. Stone: We might just as well wait.

By the President: Consideration of the reports of standing committees.

Mr. Stone: I send the following resolution to the Secretary. (Read by the Secretary.)

Mr. Mason, of Brown: I would ask the gentleman on which side he voted on that question.

Mr. Stone: I did not vote on the negative.

Mr. Mason: I rise then to a question of order, inasmuch as this report has been submitted by motion of Mr. Owen to the consideration of the Committee on Enrollment and Engrossment, they have reported it back by the Chairman of that Committee without recommendation, and it has been ordered to the Committee on Phraseology. I submit that it is not in order to present that motion.

By the President: It would have to be recalled from the Committee to whom it was submitted, before it can be reconsidered.

Mr. Dow: I will give way to the gentleman.

Delegate: I would like to inquire the reason of this reference of this question.

Mr. Dow: Do I understand a motion is before the House?

By the President: A motion to recall from that Committee is in order.

Mr. Dow: Then, I would, Mr. Chairman, make a motion to recall the report from that Committee.

By the President: It is moved that the report of the Committee on Name, Boundaries, and Seat of Government, which was referred to the Committee of Phraseology, be recalled from that Committee, the Committee on Phraseology.

Mr. Neill: Now, I think if this Convention sets such a precedent, we are likely to infringe on a great deal of work already done. This seems to me a very unnecessary proceeding, and further than that I don't know of any reason why the gentleman should wish to call it up, unless there are a great many of the members who voted for the report that are absent this morning.

Mr. Reed: I would like the gentleman to give his object for recalling, so that the Convention can act intelligently on the question.

Mr. Stone: I will say that it was requested by different ones.

Delegate: Name them.

Mr. Stone: I do not think that is necessary, but I do, really think there is a chance for reconsidering that question, and for that reason, I make the motion.

Mr. Dow: If it is in order to give the reasons, I would like to state a few of the reasons for their calling of that, and that vote. I consider it a very important matter, and I am very sorry to ask to recall a matter that has been passed upon by this Convention, if it is going to set a bad precedent, because the time is limited, and I dislike to do it. But there are several reasons why I think a reconsideration of this matter is a very important thing. But, first, I will say this, that it is a question of right to change that boundary line. Now, I claim, Mr. President, and I think all the judges and best lawyers in this Convention will agree with me, that that line was established, when the act creating this Constitutional Convention was enacted. The act creating this Constitutional Convention says that we are to form a constitution for that portion of Dakota lying south of the 46th parallel. Now, if we change by that act, those acts, that established boundary on the north and south of Dakota, if we change that line, we, in my opinion, are liable to lose all the work that we have done. It is a principle involved in the law of the land that the creator is greater than the created. The legislature of this Territory created this body; in that act they said that we should be elected to form a constitution for that portion of South Dakota south of the 46th parallel. Now, then, if we change that boundary, we have done something that we have no right, and in my opinion will be ground for the enimies of this

Constitution to say that this Constitution is illegal; and it will be a matter for litigation in the future. Now, we have a boundary line, the boundary line as reported unanimously by the Committee, and by a line established by the Legislature, creating this Convention. And I am in favor of having it remain there. This is one of the reasons why I want a reconsideration of this matter. Now, we can designate and establish our lines just as well on a sure line as on any other. Now, this line as changed, is a crooked one, and we can not follow it, because it runs through an Indian reservation, and we can not establish that line perhaps for years and years, and we should have no line established along the North-East, provided it was legal that we could change to that line. Now, we do not want to establish a line where it will involve such a grave question. And then another consideration is that the Legislature, both in the Territory, and Congress, and communications written both before and after by many leading residents, asking for division of the Territory, on an east and west line, always referred to the 46th parallel. And if we establish another line, we will not be sticking by what we have always said. It is going to lead to disturbance in Congress. It will create a question that is liable to work against us. And I do not believe in giving up the line that has been so long talked of, and a line that would be a legal line, and a line that would be the best line, because it runs straight from one end of the Territory to the other. I do not believe in giving this up for these crooked, joggy lines, that are liable to be troublesome. I think many voted for this matter without knowing anything about what they were voting for, thinking they were voting for the line that is reported by this Committee unanimously, on the 46th parallel. It is a grave question. The 7th Standard parallel is not surveyed, and we can not survey it. We can not establish a line through there until the Indian reservation is opened up. Now, gentlemen, I do not wish to take up your time. I consider it very important, and I trust that this Convention will properly consider this matter, and that this line may be something that will not cause confusion.

Mr. Stone: I just rise to again read a few lines here. (Here he reads from the law creating this body.)

Mr. ————: Mr. President, and Gentlemen of the Convention:

This is a matter that was fully, and I think, carefully, argued and submitted to a vote for a decision upon that question. We were satisfied with that decision, and I believe that it is altogether wrong to again bring this before the Convention. It will only tend to prolong this session, as it will. There are a few considerations, however, I want, Mr. President, this Convention to distinctly understand that I am not interested in any county seat; that I am not working here for the location of a county seat, that I may enrich myself by selling town lots—at the expense of the new county, that will be caused by the county lines being broken, if you put that boundary back on the 46th parallel. Again the Legislature has passed that we shall form a Constitution for that portion of the Territory south of the 46th parallel, and we are doing that when we put it on the 46th parallel. Again the Legislature made provision that the people south of the 46th parallel should be represented in this Convention, and there is not a man north of the 7th Standard parallel that has any representation on this floor. Why? Because the 46th parallel was impossible to be known, and they could not have any representation on account of that. And again, by your providing that the boundary of your State shall be on the 46th parallel, there is not time for this Constitution to submit it to the people that they can be reached, and you can not determine the line or enlighten them by this Constitution. And what will be the result? Why, men may come from north of the 46th parallel and vote on the Constitution, if you say the boundary shall be on the 46th parallel.

Now, gentlemen, I do not wish to take up your time, because I think this thing has been honorable. I thank you for the consideration you have given me.

Mr. Dow: The gentleman has thrown out, and has implied that I have an interest in county seats, or something of that kind—

By the President: He did not mean that, Mr. Dow, I have seen no personalities in this question at all.

By the President: Those in favor of the motion to recall this report from the Committee on Phraseology, will please say Aye.

The Chair was unable to decide, and division was called for, and resulted in the following vote:

31 for and 39 against.

Mr. Kanouse: I move to reconsider that vote by which this was lost.

Mr. Neill: I move to lay that motion on the table.

Mr. Neill's motion was carried.

By the President: The report of the Committee on Finance and Revenue, will be the next under consideration.

Mr. Owen: I offer a substitute to Section 2: All taxes in this State shall be uniform, and all property shall be assessed according to its value; so that all property of individuals and corporations shall bear equally the burden of taxation.

By the President: The Committee on Revenue and Finance submitted a report to the Convention yesterday, and Sec. 2 that is before the Convention is a substitute reported by the Committee on Revenue and Finance, and the question now is on the amendment to the amendment.

Mr. Campbell: I desire to call the attention of the delegates to these two sections in particular. I want to say to you that this section in the old Constitution was the one upon which the main fight was made against it, and that was because it was supposed to leave a loop hole for special legislation for individual interests. I will now ask the Secretary to read the substitute proposed by the Committee on Revenue and Finance, (Secretary reads the substitute.) Now citizens and delegates, I call your attention to three points in that section, first, and foremost, it provides that these taxes shall be assessed by general law; that I regard as the vital part of it, that is, that it must not make any special law for any particular property; it must make general laws applicable to the whole.

The next is, that the taxation shall be uniform. I call your attention to these words,—every person shall pay, individuals and corporations, shall pay in proportion to her, his or its property, according to the value in money. Now I ask the Secretary to read the substitute offered by the delegate from Minnehaha. Secretary reads. I call your attention to the vagueness of this resulotion and say as a lawyer, that no legislature, in obedience to your mandates could enact special laws against any persons or corporations. I call your attention to the ambiguity of these words,—every person or corporation shall pay a tax in proportion to her, his or its property, that they shall make the burden of taxation equal, and I simply ask the ayes and noes on this question.

The motion is seconded.

Mr. Haines: I would ask the Secretary, if he please, to read the last Sentence in the recommendation by the Chairman. Secretary reads: And the Legislature shall provide by general law for the assessing and levying of taxes on all corporation property, as near as may be, in the same method as on individual property.

Mr. Owen: My substitute should contain those words,—by general law, and I ask that it be amended.

By the President: It can only be done by general consent.

Mr. Haines: There is this fault to find with the last sentence; it is an injunction, if I understand it, upon the Legislature to provide for the valuation of corporate property by the same process, and in the same manner as individual property. I make no objections to any of the suggestions made by Mr. Campbell, they are right.

I have looked at this since the discussion yesterday, I have examined some of the late works upon taxation, and I find provisions in all the states as to the method of securing the valuation of corporate property, that it shall be under the superivsion and discretion of the legislature. They provide state boards of some kind to ascertain this valuation. Now if the proposed substitute contemplates that corporate property shall be valued by the same process and in the same manner as individual property, through the state, I must oppose it, for I believe that it is impracticable, and that it would result in a large portion of the property of corporations going un-assessed and untaxed.

The question was raised yesterday as what was meant by franchise of corporations. The franchise of a corporation, nakedly, and simply, is its right derived from the soverign power to exist and perform its business. As to the passenger and freight traffic, it would be impossible for local assessors to get at that, and if they strive to do it there will be great confusion. It won't do to limit the method of valuing the property of railways by taking into consideration the number of ties per mile, the number of rails per mile, and in addition to this the depots round-houses and the like. I don't see how it is possible for local assessors to ascertain or run these matters accurately; it should be left to the legislature to provide some appropriate method to make assessments on these corporations by a state board. The value of the New York Central railroad, for instance, will exceed in value that of any railroad in Dakota per mile, and so the value of many railways in Dakota per mile, will exceed in value per mile, that of other railways, and there is no way to ascertain this intelligently except by a state board. If this means what I think it does, that it is an injunction upon the legislature to provide for the valuation of corporate property by the same process as individual property, I am opposed to it. That should be left with the legislature.

Mr. Reed, of Sully: I would like to state that the Committee took into consideration, the facts as just brought forth; the first part of the section is all original except what was not objectionable as we understood it in Convention. The last several lines which preclude the ascertaining by a state board or otherwise the value of the track and rolling stock of a railroad company.

Now, sir; it is the design of the Committee, in the form it is now substituted to so provide that the legislature might provide some means for ascertaining the value of the track, and rolling stock of a corporation and have them properly assessed; that is provided for in this way; the legislature shall provide by a general law for assessing and levying taxes on all corporate property as near as may be by the same methods as the levying taxes on individual property; but if it is in the judgment of the legislature impossible to ascertain the value of the appraisement of the railroad property by the same methods as that of individuals they can then provide uniform methods for assessing and levying taxes upon corporation property. That is the intent of this section.

Mr. Brookings: One thing with regard to this matter; I understand the gentleman from Yankton is anxious to have the Constitution as submitted by the report of the Committee; now I know that if we can not bring this Constitution to assist the legislature, we might as well go home now; they would bury it so deep we would not ever hear of it again. Nevertheless I suppose the best way to get the most revenue would be to tax the gross earnings.

We must get at something the people will deny there is any such thing as gross earnings in it; I can not see that the section as reported from the Committee certainly was understood; it seems to me that the railroads might run all their personal property out of the Territory on the day that we assess the taxes so we could not take that; it seems the report of the Committee is as perfect as we can get it; occasionaly of course there is a case of injustice under the gross earnings law; take Yankton county; they have contributed liberally towards the building of the road; gross earnings to them is unjust.

I say we have actually, as the gentleman from Yankton county says, we have got to get this section in this article so that nobody can possibly ring in the idea that the legislature under any circumstances can pass a law allowing the railroads to pay their revenue on the basis of gross earnings. I don't see how it can be covered any more than it is in the report of the Committee..

All I want is a section that we can levy as much tax on railroads as anybody else; they should pay as much tax as other people; I do not believe in letting a corporation escape paying their full share of the taxes.

I shall support the report of the Committee, believing it is as near what we want, and that it protects all interests as near as we can possibly get it.

Mr. Owen: Allow me briefly to state; in the section as reported by the Committee are these words, "It is to be by value" to be ascertained by such rules of appraisement as may be prescribed by the Legislature; if I remember right that exposes the section to exactly the same criticism, as was the Constitution of 1883; they are prescribed, and they will say the property is worth what it brings; here is a piece of property that earns so much; then it is worth so much; land is leased so much an acre they will say, take the rental value as a basis.

They may, under that clause, if I am not mistaken, take the gross earnings as a basis of value; my substitute simply declares whether the legislature will carry out the idea or not. The substitute just prescribes that it shall be according to value, and if the legislature departs from that it departs from the spirit of the language of the section. The judgment of the Legislature upon the method of finding the value is final; it can not be reached; I may be wrong with regard to this.

As to the method of assessing the property I agree entirely with the gentleman from Sioux Falls, that it is impracticable to assess railroad corporations by common assessment, the property, whatever the property is ought to be assessed according to its value.

Upon passing to a vote, the substitute offered by the gentleman from Kingsbury County was lost, the ayes and nays being called, by a vote of 11 ayes and 66 nays.

By the President: It appears by the Journal that the amendment of the gentleman from Minnehaha extends to not only the fourth line, but the 18th line, and makes it two mills in each place.

The question before the Convention is, shall the report of the Committee on Revenue and Finance, as amended, be adopted. (Adopted).

By the President: Report of the Committee on Public Institutions.

Section—.

Section 2.

Section 3.

Mr. McCallum: Mr. President, I would like to know what that "Political Party Dominant" refers to; whether to the state or nation.

Mr. Dow: I would say I think that refers to the Prohibition Party!

Mr. Britton: I move to strike out all after "year" in lines 16, 17 and 18. (Seconded; carried.)

Mr. Wright, of Brookings: I would inquire of the Committee if it is the design, in the 3rd line, to allow the legislature to establish an unlimited number of reform schools, or whether it is a clerical error there?

Mr. Fisher: I think I see three errors here, of which that is one. I think that is an error of the printer. Strike out the letter "s" from the end of the word "schools".

By the President: So it will read "for the Blind and for a Reform School".

Mr. Fisher: Yes, sir.

Mr. Kanouse: "And a reform school."

By the President: Wouldn't it be possible to suppose that meant a school for the blind and reform school?

Mr. Kanouse: Put a comma after "blind".

Section 4.

No amendment was proposed.

By the President: The question is now upon the adoption of the report, as amended, by the Convention.

Mr. Fowler: Mr. President, I move to amend by adding at the end of the word "senate" in line 9 "whose compensation shall be fixed by the legislature." (Seconded and carried.)

By the President: The question is upon the adoption of the report of the Committee as amended by the Convention. (Adopted)

By the President: Referred to the Committee on Enrollment and Engrossment.

Mr. Fowler: Mr. President, Mr. Kellam has called my attention to the fact that the amendment reads "whose compensation shall be fixed by the legislature." It should be "by law".

By the President: Send up your suggestion in writing.

Consideration of the report of the Committee on Mines, Mining and Water Rights.

Mr. Corson: Mr. President, after some consultation with the members of the Committee we have thought it advisable to strike out all in regard to water rights in Sections 5, 6, 7 and 8; I would therefore move that those sections be stricken out; they are more perhaps in the nature of legislation. (Seconded and carried.)

Mr. Corson: I move that the report as amended be adopted.

By the President: All there is before the Convention now, as I understand it, is Section 4. (Carried.)

By the President: Referred to the Committee on Enrollment and Engrossment.

By the President: The report of the Committee on Banking and Currency is the next report that is printed.

Section 1 is read.

Delegate: I move to strike out the first section.

Mr. Brookings: I do not know that I need to say anything on this matter. I am not anxious for banking, but the section is guarded in the strongest national banking laws. I do not dread the report or the consequences very much, but the securities must be paid, which is more than the amount of currency issued. That currency must be signed by a state officer. Then you will see it is just exactly the same as the national bank laws.

Mr. Haines: This is a limitation, Sir. If no limitation is provided, you might have any sort of a wild cat system.

Mr. Kellam: It occurs to me that the main which it is intended to accomplish, is just what we must provide to avoid, as very properly suggested by the gentleman from Turner, and this section is the only limitation, as it gives power to banks to issue their circulation, as far as the laws of this State are concerned. Now, I don't speak in the interest of banks. If I did, I would support the motion to have this stricken out. Because, I say this is the only limitation to wild cat banking. We understand with the national currency, there is no danger of any circulation from any state bank, so long as the national banking act is in existence; and there is no danger whatever of any bank in this State attempting to issue circulation, because they could not do it. Now, if we strike this out or not, we leave the law and the Constitution in just such shape in the absence of national banking laws—supposing they would go out—to issue all the circulation it chose; so that it does not make much difference whether we leave this in or not.

Mr. Jessup: I move to amend the amendment by striking out the word "shall" in the first line.

Mr. Corson: I am in favor of retaining the section, for the reason that it seems to me that it will guarantee us against this wild cat banking, by providing the same means as is provided in the national bank system. That all circulation of that bank shall be signed by some state officer, to show that they were properly issued. And it seems to me that we ought to retain that by all means, as I think this section gives them equal safety. I am, therefore in favor of the section.

Delegate: I will withdraw the motion to strike out.

Mr. Jessup: I will now repeat my motion to strike out that word "shall", and have it read "if a general banking law be enacted".

By the President: It is moved to strike out the word "shall" in the first line.

Delegate: Can a gentleman withdraw his motion without the consent of his second?

By the President: The rules provide that he may, unless there is objection by the Convention.

The motion is lost.

Mr. Fisher: I now move to amend this section by striking out the word or figures "10" and insert the word or figures "20".

I will just state my reasons. All the great securities run 10 per cent. below par, and I do not think are sufficient for state securities, as there are times when state securities, as United States securities are becoming scarce, before any banking laws can be organized by the State of Dakota, it will be impossible to get United States securities to secure their circulation, and it ought to be increased.

Mr. Fowler: Now, in view of the very fact that the requirements of this section are identical with the provisions of the laws of the United States, I shall oppose the proposition of the gentleman from Spink. I am in favor, Sir, of encouraging every person to go into the banking business on a solid basis, of going into that, too, under the laws of this State. I am in favor of offering inducements to persons to send all the circulation possible into this State, that may be possible to secure within the State. As this provision is identical with the provisions of the laws of Congress on banking, I believe it ought to remain as it is. The securities of Dakota are not going to be below par.

Mr. Brookings: I am opposed to the motion of the gentleman from Spink, because we do not determine our bonds. Our securities will be just as safe as United States bonds. It will be just as safe, and just as secure.

Mr. Gehon: I offer this as a substitute for the amendment of the gentleman from Spink. (The same was filed with the Secretary.)

By the President: You offer that as a substitute for the whole section?

Mr. Gehon: For Section 2.

Mr. Fisher: I just wish to say gentlemen, that my motion included United States bonds as well as State bonds, and that not many years ago United States bonds sold for 90 cents, and I do not think that the State of Dakota should put their bonds at 103 cents on the dollar, simply because they would like to see them bring that. This is a matter to be fixed by the commercial world.

The motion of Mr. Gehon is lost.

By the President: The question now is upon the amendment of Mr. Fisher to strike out the figures "10" and insert in lieu thereof the figures "20".

The motion is lost.

Section 2 is read,

Mr. Dow: I move to strike out Section 2.

By the President: The Chair hears no second.

Section 3 is read.

Mr. Neill: I move to strike in line 17 beginning with the words "to the extent of and the amount of their stock therein," and make it read "every stockholder or shareholder shall be liable for the liabilities of the bank." There is too much of this work, a man putting in a little money, and being only liable for the amount of his stock, and I believe that they should all be held liable up till their liabilities are discharged.

Mr. Fowler: I hope that motion will not prevail. This section as it is drawn, is identical with the laws of Congress. And while I am in favor of all the safeguards that it is possible to throw around the people these institutions, and I don't allow any man to be more loyal than I am.

Mr. Beebe: A large number of the states in the Union have adopted a plan requiring the stockholders to be responsible for the amount.

A Member: I would like to ask the Chairman of the Committee this question: What is meant, in line 21, by the stockholders shall be liable for the debts contracted a year or after any transfer or sale of stock by any stockholder or stockholders?

Mr. Beebe: The Committee thought it would add stability to the bank.

By the President: The motion is the adoption of the report of the Committee on Banking and Currency as amended by the Convention, etc.

The report is adopted and referred to the Committee on Phraseology.

By the President: The report of the Majority Committee is before the Convention.

Mr. Gehon: I move that the minority report be substituted for the report of the Committee.

Mr. Corson: I am opposed to the disposition of the minority report, because I am opposed to Section 2. I think every person should have a homestead exempt, of 160 acres of land to cover the amount of five-thousand dollars, and I believe that the legislature will make more liberal exemptions than is provided for in the minority report.

Mr. Neill: What do they mean by the word homestead? I would like to ask if it is used with the same distinction that government places upon it.

Mr. Gehon: The word homestead as defined in this section is such a homestead as legislature may determine, anything that may be in the nature of a homestead that the head of a family may have at the time.

Mr. Fowler: I apprehend that a homestead as the legislature would consider it, is a domicile, a place of residence. My position is like my friend's from Lawrence, I dislike to have the homestead limited to two-thousand dollars, first because it might catch me but laying that aside, sir, I think that proposition of one-thousand dollars invested in a homestead, is probably a little small; in other words, if a man, the head of a family, in the business of agriculture, happens to be unfortunate, unable to pay his debts, if he has a comfortable home for his family, I should very much dislike to have him turned out of doors because it exceeded one-thousand dollars. On the other hand, the minority report suits me better than the majority report, it fixes the value beyond which the legislature can not go. My experience in Dakota is, that the exemption laws prevents parties from collecting debts that are due to him but they injure the credit of every inhabitant in Dakota. If the minority report is adopted I should feel like adding a provision to it to comply with the provision of the majority report, so that it should include only the heads of families. I don't believe in including in exemptions those great able-bodied men who have got nothing to do but take care of themselves. A man who is able-bodied and wants the benefit of this statute ought to emigrate from this country, he ought to be ashamed of being in this country, and nobody but a booby would expect to do it. I move to substitute the word five-thousand for two-thousand, providing there shall be no exemptions allowed to any except the heads of families.

Mr. Brookings: This is one of those questions that men should touch lightly, and I am in favor of 'eaving it as it is.

(EDITORIAL NOTE: There is clearly a break in the stenographer's report at this point. Doane Robinson.)

I move the adoption of the report of the Committee.

Which motion prevailed.

Continuation of Mr. Haines' remarks.

I am one of those that believe in some respects the exemptions in the Territory are too high; in this matter, we want to tread lightly.

It seems to me that if you take just what the majority of the Committee has given you, you will avoid all these dangers.

Mr. Mason, of Brown: I believe that if you want to enhance the value of our State financially, that we must take a sound financial basis to work upon; there are a certain class of our citizens that have followed the practice in other states of failing in business and coming to Dakota. They come here and go into business and fail here. I know of men in our county whose history dating back only four years, that have already failed twice.

Now, I believe in this kind of economy; to keep out of debt and live within our means; I am a poor man; I expect to pay my debts; I never feel as well as when I am out of debt; now if we place these exemptions low, it will enhance the value of our State financially, I believe, because it will give us a better name abroad, and that we will feel better at home. I am in favor of not only the basis of the amendent, I believe that instead of two thousand it ought to be fifteen hundred dollars, and instead of one thousand dollars personal, that it should be only five hundred; that is a plenty; that gives you two thousand dollars if you fail; you have got two thousand dollars to start again with, and that is more than a great many of us had to start with when we came here.

Let us place these exemptions low, and force every man to be honest as far as we can.

Mr. Neill, of Grant: I think we are getting into the subject of legislation in this discussion of the minority report. We are here dealing with fundamental principles; the principle that is embodied in the majority report, it is necessary to put into the Constitution; we must trust something in the legislature; they can certainly fix this satisfactorily to the temper of the people at the time they are elected.

It seems to me the report of the majority of the Committee is all that is necessary for us to take action upon.

Mr. Kanouse, of Sanborn: I was simply wishing to say, that the situation in my case being precisely that of the gentleman from Brown, I coincide fully and heartily in the view he takes.

Mr. Reed: The wealth of a state is determined in a great measure by the wealth of its citizens; and one of the great harbingers of safety, of the class of citizens mentioned by the gentleman from Brown that has passed through those peculiar trials and tribulations, is the State of Kansas; their exemptions there are a homestead, and may be a million dollars and still exempt. I am in favor of the majority report.

Mr. Wright, of Lake County: It seems to me that there is no member on this floor who does not realize the needs of a liberal exemption law; I can see no basis for this action by the people of Dakota against the present existing laws; it seems when we talk about fundamental principles we should be honest and want to express our honesty; it seems to me something definite must be done immediately to show the people of Dakota we are not trying to dodge the repsonsibility.

The credit of Dakota depends upon this one article more than any other article placed before the people; many of the other articles have no significance at all; if we adopt this it seems to me it will be an expression of doubt as to the principles of the men living in Dakota.

Mr. Patton: I would like to say that I have had a little experience so far as it relates to Kansas; the gentleman said that its credit was good; I would like to say that two years ago, capital was so plenty in Illinois that I was engaged to go down to Kansas to loan money; I went with the first installment; we could loan money out at twelve per cent. interest readily; we went there and sent one installment down; we found the exemption laws so repulsive these men would rather let their money at six per cent. than loan it in Kansas and run the risk. That is my experience, that money was every dollar recalled and invested in Illinois at six per cent. annual interest when we could have got twelve per cent. on real estate mortgage in Kansas.

Why is not it good the gentleman may say? I will tell you, there is always a little discrepency; always a little chance that the mortgagee may not be available.

We have had letters trying to get us again to ship money into Kansas; we would not do it on account of the exemption laws.

Mr. Gehon: The intention of the minority here was, to throw certain restrictions around the Legislature in making limitations which the legislature did not do; a gentleman remarked a moment ago, it was legislation; it is my opinion at least that this body has the power to throw restrictions around the legislature to prevent them from legislating anything which we may regard inimciable to the credit of the country.

Honest poor men always are willing to pay their debts, and as a rule I have tried to pay mine; I am willing to submit to this exemption, these limits placed here, though I might if I was going to fix it up myself make it larger. At the same time we have left the thing open so it can be done away with entirely; there is no minimum figure for us, it is simply maximum.

Mr. Allen, of Turner County: The majority of the Committee who framed this article for the Constitution had in view the article from Wisconsin, thinking it would answer the purpose for Dakota just as it would for Wisconsin.

It exempts simply the homestead, and leaves the legislature to determine its value; whatever they may determine is the reasonable value to place upon the homestead, it will so remain. We thought it was going too much into legislation for this Convention to fix that amount.

It also exempts a reasonable amount of personal property, it does not state the amount; we think the necessity for exemptions is liable to change at any time; what may be a reasonable exemption of personal property today in ten or twenty years from now may be very unreasonable. So it was thought better to leave this matter entirely to the legislature and let them fix the amount of the exemptions, real and personal, as they think the people demand.

The legislature comes directly from the people and they will know just exactly what they want.

We are of the opinion that this matter ought to be left entirely to the legislature.

Mr. More, of Beadle County; I think an honest endeavor to get at the real purpose of exemptions may come in here.

I do not think that the legislature intends that cheating creditors is the OBJECT of exemptions. I think the real object of exemptions is that the family may not be dispersed and financially wrecked but what they can prosecute the industries in which they have been engaged, so that subsequently they can pay the debt.

It is a fact that creditors are sometimes avaricious; it is a fact some creditors seems to take it all; and when they do take it all; the family from which they take it away, are financially wrecked.

The principal industry of Dakota at the present time is agriculture: I have been studying this question now for some time; and from an agricultural standpoint, it is necessary that a certain proportion of the lands be preserved for the family, that cannot be taken by creditors; it is necessary if they work the land, that they have a team; some measure of personal property so they can go on, must be allowed them; I think there should be an exemption of real estate, enough to keep the families together, let the work go on, let them pay their debts and get square with the world again; I do think an exemption of over fifteen hundred dollars, is necessary. And then with an exemption of $500 of personal property it seems to me they might go on and cultivate the land. There is another class; those that live in town. Well, if a man in a town or in the vicinity of a town has a home that is worth $10,000., if he has miscalculated and miscarried in his business affairs and has become involved, I aver that it does not look well if he clings to the $10,000. home, and says "I can't leave this; the law gives it to me. and I am going to look to the law". It would be more creditable to him not to do so. And the State ought to provide that that man is not in a position where he can take a position which is to his discredit rather than to his credit; the State ought to provide that that man is not ill-spoken of; the State ought to look out for the integrity of all its citizens. If that man were an honest man, as I believe the gentlemen here upon this floor to be honest—and shall continue to believe so until compelled to believe it is not so—if he were honest he would say "Here, I have made haste to get rich and have fallen into a snare, and now take the ten-thousand dollar home and give me the fifteen hundred dollars and I will go out on the out-skirts of the town and make me a little home, and it will be comfortable and cozy, and I will start again." It seems to me there would be more manliness in such a course; and I declare it is better for legislatures to so hedge him up that he would be under the necessity of doing so. The legislature is not so savage as to throw his family out of doors. The State ought to see to it that every family may be covered by a roof; I do not object to that exemption. The credit of the State is involved in this matter. It would be very unjust to the citizens of Dakota to say that they are theives; that they want to press the exercise of their credit to the utmost limit, and then extend the exemptions so that all a man can get upon his 160 acres, or all that a man can get in a town home, is covered by exemptions.

I believe I shall vote for the express limits in the minority report rather than for the general exemptions in the majority report, and I vote for it for this reason: The object of Constitutions, as has been expressed here on this floor again and again, is to limit the legislature. I can not say but what it would be fair to expect that the legislatures assembled in this State hereafter shall be equal in intelligence and wisdom and honesty and good sound judgment, to this Constitutional Convention; I hope it may be so. If it is so, I believe the interests of the State would be well cared for. I would not impugn the future, whatever criticism I may have upon the past.

Mr. Gunderson: Mr. President, this thing has been talked over, or was talked over once in the Committee, and from what I have seen and from my judgment it would seem to me that this body can not go to work and say what the values of exemptions shall be twenty or thirty years hence. If we limit this thing we limit for perhaps thirty years; twenty years; maybe more, in the future. Now, it is well known that property, especially real estate, is liable to rise in value; you limit the real estate at two thousand dollars, and probably in five years a man's farm will be cut down perhaps to eighty acres; in a few more years to forty acres; in another few years he may not retain forty acres; and in that way they can keep chopping off a man's farm till they may get down to the house. And in other cases; take town property: Suppose that a man has a building that is worth $2,500.; now, are we going to go to work to sell him out or harass that man for the sake of getting him down to $2,000? I say it is injustice. The legislature can provide to suit the times, and not be limited now for perhaps fifty years in the future. The exemptions now as they stand are a good thing in some cases and in some cases they are not, but it seems to me in limiting these things, and especially personal property exemptions, you have another thing to contend with. It is well known that a single man, working at his trade—it should be at least—a single man working at a trade in town; if you exempt his tools it is a reasonable exemption. In this case he can throw himself under the thousand dollar exemption and go to work and lay up money in property while the law is protecting nobody but that single man. The object of exemptions is to protect a man's family; to protect the women and children so that they can not be thrown out of house and home, and this does not do it; and we go in under this thousand dollar personal exemption and we exempt the married and single alike. It does not make any difference whether he has got a family or not, and it seems to me it is injustice on the face of it. You run against the same snag on real estate exemptions. The single man may hold his $2,000 worth of real estate and defy his creditors, and the single man that is able to work should be compelled to pay his debts, except so far as exempting his tools perhaps, if he is a tradesman; his books, if he is a lawyer, or enough so that he can carry on his business; but when you throw that 3,000 dollars around him, around every single man, it seems to me it is an injustice. The majority report in this provides that an exemption shall be provided by law, but that shall be reasonable, and it seems to me that we can throw confidence enough in our future legislators to lay down the exemptions to suit the times. Now, if we should have five or six, or even ten years of good crops, everything flourishing, it might be possible to throw down almost all of the exemptions; while on the other hand if we should have three or four years of failures in this Territory, three or four years of bad crops, it might be necessary for the legislature to raise the exemptions to protect the people. And in this case it seems to me that the majority report should be the thing adopted by this Convention, or something similar.

Mr. Miller, of Hughes: Agreeing with the gentleman from Spink in regard to his objections to the minority report, and feeling that the future legislatures will want to have something to do when they convene, I move you, sir, that the further consideration if the minority report be indefinitely postponed.

By the President: That is not the question before the House.

Mr. Miller: I would inquire if a motion to indefinitely postpone does not take precedence?

A Member: Rule 24, Mr. President.

By the President: The amendment is already made. (Here the President read Rule 24.)

Mr. Miller: I understand that a motion to postpone is in order.

By the President; The first motion before the Convention is that the report of the minority Committee be substituted for the report of the Majority Committee; upon this Mr. Fowler, of Pennington, proposed certain amendments; now Mr. Miller, of Hughes, proposes to postpone. That must be the question before the Convention;that is, to postpone.

Mr. Miller: My motion was to indefinitely postpone the further consideration of the minority report, including the amendment proposed by the gentleman from Pennington.

(Division called for.)

By the President: 53 for to 16 against.

Mr. Jones, of Miner: (Excitedly) This is the rouges' paradise!

Mr. Neill: I move to adopt the majority report.

Mr. Owen: I move to insert in line the following: (The President here explained his version of the rules.)

By the President: The motion is in order to indefinitely postpone.

Mr. Neill: I now insist upon my motion that we adopt the report of the Majority Committee.

Mr. ————: I desire to offer an amendment.

By the President: As soon as I dispose of this present question I will hear you.

Delegate: I desire to strike out in the third line the words "heads of families", and the reason why I want that done is because it is not now consistent with Sections 10 and 12 of the report, which says that no special immunity shall be granted to any person or corporation.

Delegate: There is a member here waiting to make a motion.

By the President: I now recognize the gentleman.

Mr. Schults: I move to insert in line 4, after the word "law" not to exceed $300 that represents a homestead; and in line 6, after the word laws, "not to exceed $1000." That refers to the exemption of personal property.

By the President: You move that as an amendment to the amendment?

Mr. Schults: Yes, sir.

Delegate: Mr. President, I desire to make a correction in the motion I made. I desire to correct the language, and strike out "all heads of families."

By the President: Reduce that motion to writing, and send it to the Secretary.

Mr. Dow: Is that amendment before the House?

By the President: The first motion is on the adoption of the majority report, offered by Mr. Neill, of Grant. The gentleman from Lawrence proposes an amendment in reference to the heads of families. Another amendment or proposed amendment to the amendment is offered by the gentleman who is now writing it.

Mr. Dow: I only want to make a remark about it.

By the President: Plenty of time now.

Mr. Dow: I think we have covered a large range of discussion, and I am in favor of leaving something to the Legislature. I do not believe it is necessary for us to prescribe all limits, and for that reason I would favor the original report of the majority Committee; but I will say this; that I believe large exemptions are detrimental to a poor man instead of money loaners. This I believe every man who handles money will agree with me, that large exemptions are to the disadvantage of the poor man. I want to say while I am on the floor that I am opposed to that amendment, which would throw around the married man the protection of the State of Dakota I believe that the man who has no wife is to be pitied, and he is entitled to the sympathy of the State. A man that has a wife is worth $1000 without any other property, and every child about $500, and I am opposed to the amendment of the gentleman from Lawrence, which makes this distinction, and think it would be better to leave this matter to the legislature, and let them decide the matter. Therefore, I oppose this amendment, and favor the majority report.

Mr. Frank: I would like to say in answer to the gentleman from Brown county, that I am a poor man, and am trying to accumulate some property to get married.

Mr. Owen: Mr. President, I would like to ask if this Constitutional Convention in adopting this, prescribes the limitations, in providing for exemptions for heads of families, does it by implication, so far as the right of the Legislature to deny the right to anybody else, so that the poor single wretch might be deprived of his goods.

Delegate: It is not meant by this that a man must marry as soon as the sign runs out.

By the President: The question is upon the motion of Mr. Franks which is to strike out the words "of families."

The vote stood 29 for and 39 against, the amendment is beaten.

By the President: The motion now is upon the amendment offered by Mr. Schults, which is to insert in line 4, after the words, "law" "Not to exceed $3,000," and in line 6 after the word "law" "not to exceed $1,000." Those of the opinion that this motion prevail will say Aye.

Division is called for.

Upon a rising vote, the result was 21 ayes and 44 nays; so the amendment is lost.

Mr. Campbell: I call the attention of the Convention to the 7th line, and move to amend it so it will read: That no law shall affect any debt.

By the President: What would be the meaning of that?

Mr. Campbell: I will change it and instead of affect, say apply.

A Member: I move as an amendment to the amendment that the clause after the word laws, in the 6th line be stricken out, all that clause after the word laws.

By the President: The word laws occurs in that line twice, do you mean the first or second one?

Answer: The first.

By the President: The question before the Convention is to strike out from Sec. 1, in the 6th line, the words, "No change in the exemption laws shall be effective in the collection of any debt contracted prior to the adoption of this Constitution."

The ayes have it. The amendment prevails.

Mr. Wright: I move that in connection with that article we adopt the exact words in Sec. 2, of the minority report. I hope, Mr. President, that this Convention will not take final action upon this article of exemption without placing some limit upon it. It seems to me that every man who has an idea of honesty, or who has an idea of the effect of our exemption laws will insist upon taking some action to this effect. Our present laws are the same in effect as those presented by the majority report. I care not whether it be five, seven or ten thousand dollars, but I think it is our duty to place a limit upon exemptions, and it seems to me that the present provisions in this article are sufficient, and all that any honest man ought to claim to support his family, and there is nothing obnoxious to the majority of the people in that section.

By the President: It is proposed to add to Sec. 1 of the majority report, Sec. 2 of the minority report.

Mr. Mason: I move to amend the amendment by striking out the word, two-thousand in line 15, and inserting one-thousand five hundred; and in line 17 to strike out the word one-thousand, and insert five hundred.

By the President: The question before the Convention is the amendment to the amendment offered by Mr. Mason, etc.

The nays have it.

By the President: The question now recurs upon the motion of the gentleman from Lake, that Sec. 2 of the minority report be added to the majority report, so that it shall consist of two sections, one from one committee, and one from the other.

Mr. Owen: I vote no because I believe it is a matter for the legislature.

The vote stands: Ayes 30, nays 50.

By the President: The question now is as to the adoption of the majority report.

Mr. Campbell: I believe under the ruling the previous question does not affect anything but the amendment, it does not carry with it the main question.

By the President: I did not understand it so.

Mr. Campbell: There is a very important amendment here for the Phraseology Committee, and I am afraid there is a little ambiguity regarding it, and if I can get the unanimous consent of the Convention I would like to amend it.

By the President: The question recurs upon the adoption of the report of the Committee as amended.

Which question was carried by vote of the Convention.

By the President: The amendment is adopted and the report is referred to the Committee on Engrossment.

Mr. Ward, of Hughes: I would like, if it is in order, to move an additional section to that report.

By the President I hardly think it would be at this time, directly; I think it could be done indirectly by referring the report to the Committee and asking a report; I think that could properly go to that Committee and they could report after dinner. I am sorry to see party lines drawn here.

Mr. Fisher: I ask the Convention to excuse me from attendance, after today.

Mr. Ward, of Hughes: I also ask to be excused from attendance, after today.

By the President: I ask that we expedite matter as rapidly as possible; probably all of us must leave after this week; the Convention should act expeditiously.

On motion, Convention adjourned.

Mr. Campbell, of Yankton: Mr. President, I ask the unanimous consent of the Convention to introduce the following resolution. (The resolution provided for the appropriation of $10 to the Territorial Auditor for expenses in transporting funds from Bismark for the payment of Convention expenses. (Filed with Secretary.)

Mr. Campbell; continuing said: These are the facts as given me by the auditor of the Territory. In order that there might be no inconvenience to the members of the Convention the Auditor has very kindly seen to the transportation of the funds, and as this money was expended for the benefit of the public service it simply needs the authorization of the Convention. (Carried).

A Member: Mr. President, I beg leave to submit the report of the Committee on roads, bridges and other internal improvements. (Filed).

Mr. Campbell: I ask the unanimous consent of the Convention to take up two or three resolutions. (Here Mr. Campbell read a resolution requesting departing members to leave their signatures with the Secretary with authority to append the same to the Constitution. (Filed.) (Carried.)

Mr. Campbell: Mr. President, I also ask the permission of the Convention to submit and have considered the following resolution. (The resolution referred to instructed the Printing Committee to provide for the furnishing of various kinds of printed matter to the State Executive Committee, etc., and after being read, the resolution, which contained several subdivisions, was filed with the Secretary.)

Mr. Campbell, continuing: Mr. President, it has been intimated by the President of the Convention that we will be through our work so far as at least to try to adjourn by Saturday. Our view upon this matter has been that if the Convention desires to make any provision upon this subject it had better be done at once, in order that there may be time for the auditor and the officers to take action before the Convention adjourns. This resolution now merely contemplates that the order be made, and then afterwards you take such action as you deem proper. Before the order can be made there must be an account audited and presented, and therefore to enable them to make this order, the Printing Committee are requested to ascertain and report the cost of expenses. They ought to do that very speedily; then the Convention, if they see fit, may order it. Otherwise we may be too late to do anything about it.

By the President: I ask that these resolutions may go over until tomorrow, that we can consider them.

Mr. Campbell: Tomorrow is Thursday; we are expecting to adjourn very soon.

By the President: It involves not only upon me the authority to sign but the direction to sign; I would hate to have the Convention direct me to sign anything without an opportunity of examination. If it were simply authority to sign it would be different, but before you direct me to sign I would like an opportunity to make examination myself.

Mr. Campbell: Time is an element here of considerable importance, and, while I do not desire to press these resolutions now, yet I think we ought to attend to it today; we are in imminent danger of adjourning without opportunity of completing this work.

Mr. Corson: I move that they be taken up at half-past seven this evening.

Mr. Kellam: I desire the permission of the Convention to make a suggestion with reference to one matter involving the report of the judiciary committee, which is already adopted, and if the suggestion meets with the approval of the Convention I want to follow it with a motion to make a change by recalling the report and having an amendment made, and it is this: In the division of the State into circuits the Committee of course performed their duty just as carefully and judiciously as they knew how. The county of Hanson, which by the report of the Committee, as adopted is in the first circuit, has sent a representative here asking to be transferred to another circuit on account of their own convenience. I have consulted with members of that Committee and they declare themselves in favor of it. In transferring the county of Hanson to the circuit to which they desire to be transferred it will necessitate the transfer of another county, the county of Spink, to the fifth circuit, and the representatives of the county of Spink prefer that transfer. It is simply a question whether the change shall be made, now that the parties themselves are in favor of it. I make the suggestion on account of the people to be effected by it, not my own account, and, with the permission of the House I will move that the judiciary report be recalled from the Committee in whose hands it is, and that amendment be made, transferring the county of Hanson from the first to the fourth and the county of Spink from the fourth to the fifth. (There being no objection, the motion was put and prevailed.)

Mr. Weeden: I would like to be allowed the indulgence of the Convention to present a resolution that you may refer to any committee you may think proper; but I think it is of vital importance to every man in this Convention, and I hope that the committee to whom it will be referred will give it due consideration before they return.

(The resolution was in reference to the providing by the legislature of a lawful rate of interest, and was filed with the Secretary.)

Mr. More, of Beadle: I would like the consent of the Convention to a call upon the Chairman of the Judiciary Committee for an opinion upon a matter that was referred to him by resolution, I think yesterday, in regard to the northern boundary.

By the President: The resolution last introduced, by Mr. Weeden, of ————, is referred to the Committee on Miscellaneous Subjects.

Mr. Moody: Mr. President, I suppose that what the gentleman desires is a statement.

Mr. Mason: Mr. President, I would like to inquire if there was such a thing referred to the Judiciary.

Mr. More: That is my recollection in regard to it.

Mr. Mason: I have no recollection of any such reference.

By the President: What was the subject?

Mr. More: The northern boundary line.

By the President: I think there was such a question referred to some committee, and my rememberance is that it was the Judiciary Committee.

Mr. Moody: My recollection of it is simply this: The question was asked of me when the subject was under consideration; I said that I was unable to answer it and unwilling to answer it until I had an opportunity to investigate and examine the law carefully upon that subject. The matter was left, I think, at that point, with a request that I should examine.

A Member: Let us have it now.

Mr. More, of Beadle: If there is any reluctance on the part of the Chairman of the Judiciary Committee to give it without resolution, I move that he be requested to give it now. (Seconded.)

By the President: That the Chairman of the Committee be requested to give the opinion?

Mr. Neill: I would like to know for what object this motion is made; whether a question of collusion, or something else. It seems to me very inopportune. We have considered that from the standpoint of the sense of the Convention, and it is generally conceded that a constitutional convention has the right to provide what the boundary line shall be. Mr. More's motion prevailed.

Mr. Moody: I want to say to the gentleman that there is nothing like collusion, that I am aware of. I state what I regard the law on the subject, after having examined it. I was unwilling to state it the other day. Now, so far as the adoption by Congress is concerned, I don't care anything about it, personally or otherwise. Of course, so far as my views of the real interests of the people of the entire Territory are concerned, that is my own view of it. I have examined that question, and all questions of law. I shall submit the question to the Convention, as I have construed it. Of course, it is not the finding of the Convention, any more than any other thing that comes before the Convention. But still, it is wise for us to consider what we are doing, and the authority under which we are acting, to see whether we are going too fast or too slow.

Now, the law under which we are acting is as plain as any other law of the Territory. We are using the people's money—not belonging to ourselves—we are using money here of this Territory, we are using the money of the people of this Territory, that we represent, unless we are embezzling or aiding and assisting public officers to embezzle the funds of the Territory of Dakota, which has passed this law, and of course, we are here relying on the act which created this body. That law I regard as perfectly valid as well as politic, and that it will be recognized as the law of this Territory until repealed. Now, that law provided that said Convention, after its organization, shall proceed to draft a Constitution for that portion of South Dakota lying south of the 46th parallel, in which shall be defined the boundaries of the proposed state south of the 46th parallel. My view of that provision is this: That the Legislative Assembly has undertaken to designate the part of Dakota for which this Constitutional Convention shall draft a constitution, and this Convention has no more authority to draft a constitution for that part of Dakota south of the 46th parallel than it has to draft a constitution for one county in that part. The law provides that said constitutional convention. That means the whole of that part of Dakota south of the 46th parallel. And that this Convention is responsible, and they have no right or authority to do anything else, except to describe the boundaries of the proposed state, showing the 46th parallel is the northern boundary.

Delegate: Mr. President, I would like to ask the gentleman from Lawrence this: Inasmuch as the Legislature did not define and did not lay down by what means or how the 46th parallel should be defined prior to electing delegates to this Constitutional Convention, should we form a Constitution including the people between the 7th standard parallel and the 46th parallel, when it was impossible for these people to be represented in this Convention. Was not the act of the Legislature faulty, inasmuch as it made no provision for the representation of those people here? If it was faulty, in that regard, as I think the gentleman must acknowledge, was it not faulty, in others?

Mr. Neill: I would like to make a suggestion on another point. That question of the 46th parallel, and the 7th standard parallel was made a question in the Legislature last winter. They discussed it long and hard, and they could not themselves agree on that dividing line. Another thing: It has been printed and said in the other states that the people of Dakota are unable to agree on a line, and will have to leave that question to Congress. That being the case, the Legislature certainly never intended suggesting in this act that the question of the line should be organized on the 46th parallel. It simply provided that we shall be organized south of the 46th parallel, and the calling of the delegates together meant nothing more than this.

Mr. ——————: In answer to the gentleman from Brown, I will read the act. It goes on and calls the Convention, and then it provides that the organized counties in the Territory south of the 46th parallel, at the time of the election hereinafter provided for," etc.

Mr. Moody: Mr. President, I do not want to enter into any discussion. It was not fitting, but so far as I am concerned a subject of discussion, though I am aware that this question is for the adoption of the Convention. We have for days tried to indicate the sense of the Convention upon certain articles therein from time to time, certain propositions to be incorporated therein, but it is like separate provision bills in the Legislature, where they consider them apart, but when they come together in the form of a law then it is still in the power of the Legislature to change them. Constitutions are drafted in part, and when the parts are put together then it is the duty of the Convention to adopt it as a constitution. But when it is thus put together as a constitution, the convention undoubtedly has the right and liberty to revise them.

Necessarily so; or you will get into the Constitution many inconsistencies. Now, I will answer the gentleman from Brown county that I do not consider the law faulty. I do in some respects consider it faulty. There should have been some provision made not only for the election and the expenses of this Convention, but they should have made some provision for this Convention to provide such further steps as were necessary. There is some embarassment as to the mode of duty. They created this body, and have expressly defined our duty, but they have not said anything about an appropriation being made for the expenses of the election, by some limitation, or some means; for instance nothing was provided for the necessary clerks, paying them so much consideration, so that the means may be provided for. Now, the law is faulty in other respects; it should have more definitely fixed the mode and manner of giving to those people living north of the 7th standard parallel the right of representation to those counties. Nevertheless, in my judgment, it is entirely sufficient, for if the 46th parallel carries us through unorganized counties, then the people of that portion of the Territory would have a right to send representatives, and if they have not done so, it is not the fault of the Legislature, and it is no fault of this Convention. All organized counties south of the 46th parallel at the time of the election shall be entitled to one delegate. It is for that portion south of the 46th parallel, and the whole thereof that we are to form a constitution. Else, it would have been absurd for the Legislature to have provided that persons not residents of that portion of the Territory should be entitled to representation here. But all residents south of the 46th parallel, living in organized counties were entitled to be represented, if they live in organized counties at the time of the election. I speak of other points in the law, but that is neither here nor there. It seems to be here that the boundary line on the north was established by law. Now, it is reasonable for us to put a construction on that law, by reading the debates which were had at the time the law was passed. It is quite important, sir, but when the construction of the law is clear, though we would gather information from this standpoint, and our own experience here has shown that separate propositions have been submitted; perhaps we have not discussed them, and various other things.

I want to say again on this question with reference to where the boundary shall be, whether on the 46th parallel, or on the 7th standard parallel, I am not in any wise biased in my judgment, for I am personally, wholly and totally indifferent regarding it.

Mr. Ward, of Yankton: Upon this boundary question I suppose we are anxious to get a line which will be definite boundary, and it seems to me if we want that which is definite we can't do better than take the 46th parallel. For about one-half the distance of that parallel the work was done by an engineer who had to be protected by a band of soldiers, from the Indians; and as fast as he established the line and drove a stake, after he had gotten a little way off, the Indians would pull up the stakes. He experienced great difficulty in doing this work but finally succeeded, and the line established is an absolute one. If you want a line that runs from the beginning to nowhere, take the 7th standard parallel. Which never can be a straight line, and if anyone is to experience any doubt as to which side of the line they are living on, why not take the line that is absolute and definite, and a straight line.

Mr. Lowthian: I would like to ask the gentleman why they have not provided for the counties that are organized and extended south of the 46th parallel, he does not provide for them but goes on and leaves that district which is between the 46th parallel and the 7th standard parallel unrepresented, and we have a perfect right to establish that line and claim our representation.

By the President: There is a question regarding the reading of the reports. I understand the rule to be, although I have not had an opportunity to examine it very carefully, is this: The bill is ordered to its first reading, and that is when the Committee has reported it to the Convention, and it is in the hands of the Convention until after its third reading is completed. As I have said, I have not examined it; but it has been so determined by the Republican convention. It is now ordered for its third reading, and when it shall come shaped for the Constitution from the hands of the phraseology Committee, if they have made any interliniations it comes up for the action of the Convention, and until that time it is still subject to the Convention. If I am not correct I shall very gladly receive direction of the Convention through the Committee on Rules.

Mr. Moody: The Chair is unquestionabiy correct. All these propositions are under the control of the Convention until their final passage. To illustrate further what the Chair has said; suppose all these propositions are referred to the Committee on Arrangement and Phraseology, and when they report back they report the complete instrument with the phraseology in some cases corrected, suppose the Convention should be dissatisfied with the report, or their arrangement or their phraseology, suppose the Convention should think that that Committee had made a mistake, of course the Convention could refer that back to the Committee with instructions to change it. Therefore, to illustrate the position of the Chair, until the Convention has adopted it finally, it has control of all these questions.

I want to call the attention of the Convention to a matter of grave importance, and I do so now, because I desire to ask leave of absence. My view is this: If this proceeding is a success, if the Constitution which you adopt here should be ratified by the people, and if upon that ratification Congress of the United States should admit South Dakota into the Union as a state, you will probably need a body of men authorized thereto, to assemble and speak for the people. In my opinion it will be impossible, perhaps I ought not to say impossible, but improbable that the Congress of the United States will adopt the boundary which you have already adopted, I know that that was under consideration by certain of our friends in Congress when the enabling act was under consideration; and I think it is quite necessary that when this Convention adjourns its present session, it adjourns until the first Tuesday in April, 1886, etc.—to keep alive this body, which we are authorized to do under the law, provided, of course, that the members cannot draw pay only for thirty days. It is provided by law to adjourn from time to time, and it may be possible that there are some matters that we have overlooked, and there may be some matters sent back for re-consideration, and the easiest way will be to re-assemble the Convention to listen to the demands of Congress.

The ayes have it; the resolution is adopted.

Report of the Committee on Amendments and Revisions of the Constitution, being before the Convention for consideration.

Section one, is passed upon reading without amendment.

Section two is read.

Mr. Kanouse, of Sanborn: It seems to me that the word "next" should appear between the words their, and session, in the 24th line.

By the President: That is a clerical omission, the Secretary will make the correction.

On motion the report of the Committee was adopted, and referred to the Committee on Phraseology and Arrangement.

By the President: The next report is that of the Committee on Seal of State, Coat of Arms, and Design of Same.

Mr. Britton: I would like to ask the Chairman of the Committee in line three, whether it should be foreground, or background?

Mr. More: I rise to offer a suggestion; I think there must be a clerical error; I think it should be "left background" instead of foreground.

Mr. McCallum: I have no doubt it is a mistake, it should be left background.

By the President: I am informed by the Secretary it is a misprint; the question is upon the adoption of the Minority Report.

Mr. McCallum, of Beadle: I do not desire but a word or two on this; it seems to me that this is a very religious motto for a state. I believe in separation of church and state; we are framing a Constitution for all of the people; all of the people of Dakota will not endorse the motto as reported by the majority of the Committee; they can not do it. All the people of Dakota can endorse the Minority Report, they believe in that.

It is in accordance with the resolution of the gentleman from Yankton that caused considerable discussion on this floor. The political power, is inherent in the people.

Only one other state in the American Union, Mr. President, has anything like this motto, that I know of, and that is the State of Connecticut, and the English of that motto, is this: "He who transplants still sustains". That was adopted by a state composed of people who left their mother country for liberty, religious liberty and it would be natural for them to take with them, even into their state affairs a considerable amount of reverence to the God they worshipped.

I object to the motto of the majority of the Committee for another reason.

It does not represent an absolute truth. I ask the gentleman of this Convention, if the act of the people is modified by the will of God, how it is done; do men holding in their hands the sovereignty of the people, in the form of a ballot, consult God before they deposit it in the box; when political campaigns are red hot and the people vote wrong upon a question, (as they often do) does God direct that vote? I say NO.

Suppose the gentlemen in this Convention, who are anxious for the success of prohibition, that the people vote it down this fall, will you say, can you desire to say, that under God the people vote it down?

Voices: Yes, yes, yes.

Mr. McCallum: Yes! Then Mr. President, the gentlemen must, by that same logic claim that under God the people of the empires of the old world favor kings and tyrants; or if under God, the people in Iowa who voted for prohibition do not get it, the people do not rule there,—is that it?

I believe, Mr. President, that it would be the gravest mistake that this state could make to engrave in their seal and upon their Coat of Arms, this motto.

It does not agree with the sentiment of the Bill of Rights, that every man has the right to worship God according to the dictates of his own conscience. It prescribes him; it limits him.

I stated a while ago that a certain class would not vote for this Constitution if this motto were retained; I know whereof I speak; I have been informed since I have been in this city that a certain class here (and this information was entirely gratuitious as far as I am concerned) a certain class would not vote for the Constitution, and would use their utmost influence and endeavors to defeat its adoption.

These may be small arguments; but it is true there is a large class who scoff at the idea that their political power as citizens, as voters, to be directed and influenced by God himself.

As an absolute proposition, I do not believe it is true. I can not give it my endorsement; I shall not give it my endorsement.

I am also aware, Mr. President, from votes that have been taken by which the sentiment of this Convention has been indicated that it is a religious body, strikingly so,—

A Voice: GOOD.

Mr. McCallum: You may say good; but we are a body framing the organic law of this state; if the State is separate and distinct from the church, and you must know sir, that the time is now and stronger now than ever before that the state and church should be separated by a distinct clearly marked line,—

Call of point of order, the gentleman has exceeded his time.

On motion the rule is suspended.

Mr. McCallum: I was going to say further in answer to the gentleman, we are here working for the State at large and men, who, under the bill of rights, as I have said, have the right to think as they please and worship God as they please, or not worship Him as they please. There is too much religion in this motto. I have made no objection to the acknowledgment of God in the Bill of Rights; I have not urged any opposition to that nor to the sentiment that says all the citizens or all the people have the right to worship God according to the dictates of their conscience. I shall object to and vote against the preamble where it says "Grateful to Almighty God". That is a religious sentiment; strictly so. I object to this for the same and a stronger reason, that the motto, as it stands in the majority report, limits the action of the people to the will of God, or it means nothing. Besides, there is one other objection which might be urged by men who are of a strictly religious nature, and that is this: The newspapers have already given the cue to the public, and the profane men will always use the word "by" instead of "under" in this motto, and in that way bring ridicule and derision upon that which should be held sacred. If the Anti-Prohibitionists succeed in Dakota this fall, as they may, they will say, using the word "by" instead of "under" God the people rule, thus making profanity and sacrilege of it. There is no need of our trying to honor God in that way; he don't need our feeble efforts. We set up a government and say that this government is founded upon the will of the people and it is. If the people vote wrong they are imposed upon by bad lawmakers; when they vote right they can maintain and sustain themselves. No man goes into his closet and prays before he goes to the ballot box. I defy my reverend friends here to say that they do that in the heat of the political campaign. (Laughter.) If they do not acknowledge that they are directed by God when they vote for the Republican or the Democratic ticket, how it it going to be applicable Mr. President, I have said what I have from honest sentiment, I do not act for other men; I act and talk for myself, and it is my honest conviction that it is an improper motto. If you leave it as the minority report recommends, "The People Rule", every man south of the 46th parallel will endorse it.

Mr. Owen: Two years ago the people adopted the motto, "Fear the Lord"; we have no evidence that they have withdrawn from that position.

Mr. Stone: I would rise to suggest one thing; in regard to this matter it seems to me that there is something at least worth thinking about, and that is this: Suppose we had a motto, "Under the POPE the People Rule". Now, there are a large class of people in South Dakota who would be willing to accept that motto; there would be another large class who would not be willing to accept it. Now, sir, you are placing part of the people of South Dakota just in that position, in this case, that you would place the other people in if you said "Under the Pope the People Rule".

(Cries of "No, no, no." "Question, question, question."

Mr. McCallum: I believe that I am willing to go on record in this matter and I should like the ayes and noes, if I can get enough gentlemen to assist me.

(A large number of the members sprang to their feet.)

By the President: The ayes and noes are ordered. Those who are of the opinion that the minority report should be substituted for the majority report will answer "Aye" as their names are called; those who are of the contrary opinion "No".

(The roll of members was called.)

By the President: Eleven ayes and seventy-three noes; so the motion does not prevail.

Mr. Miller, of Hughes: I move that the report of the majority committee be adopted.

Mr. Corson: I desire to call the attention of the convention to figures "188 " on line 18. I have looked in several constitutions and I find none that contain figures. I move to strike them out.

Mr. Miller, of Hughes: I would suggest to the gentleman that it is designed to put the date in there, when the State was admitted.

(Mr. Corson's motion was seconded, and prevailed.)

Mr. Proudfoot: I wish to say in explanation of my vote on the substitution of the minority report, that I do not support any irreligious sentiment, but I think as a matter of justice they should be separated; I think the interests of church and state are not so clearly connected as they are in the majority report.

A Member: I second Mr. Miller's motion to adopt the majority report. (Carried).

By the President: Referred to the Committee on Enrollment and Engrossment.

The report of the Committee on Preamble is before the Convention. The Secretary will read the report of the Committee and the minority report.

Mr. Fowler: I desire to offer a substitute for the report of the Majority Committee.

By the President: The motion is upon the amendment proposed by the gentleman from Pennington.

Mr. Corson:

By the President: The motion is upon the substitute offered by the gentleman from Pennington.

Mr. Corson: I am opposed to the substitute, beacuse I think that matter should not be in the preamble to our Constitution. I see that substitute offered by the gentleman from Pennington is the preamble adopted at the last Constitutional Convention two years ago. Notwithstanding it was adopted by that constitutional Convention, there seems to be no propriety in embodying matter in regard to the Northwestern Territory. It seems to me entirely unnecessary that this matter should go into our Constitution—and our Organic Act. It is better that those matters should be all brought to the attention of the President and Congress that we have a right to be admitted under the Ordinance creating the Northwestern Territory, and also under the treaty by which Louisiana. These matters will be properly considered by the President in the application for admission. Therefore I am opposed to the preamble in the substitute, and also to the minority report, and shall be in favor of the majority report as it stands.

Mr. Updyke: I think the Convention will bear with me for an instant. I have not spoken before in the Convention, and perhaps it is better to speak here than anywhere else, because I believe the gentleman from Lawrence, whom I asked to speak for me, finds himself obliged to advocate the other side. Therefore I feel obliged to speak. I would gladly relieve this Convention from the necessity of listening to any speech from me during this session. But I think I am justified in making up this minority report, and the discharge of a duty which devolves upon me. The question will expand perhaps in the inquiry as to what is involved in the preamble. Now, there is no material difference between this preamble and that of two years, and this is the subject to which I shall confine my discussion.

Now, a preamble is something that goes before the instrument, and that preamble means everything, and that preamble is an introduction to almost everything.

Since coming to this Convention I have not made the acquaintance of many members of the Convention, but since coming here I have been more acquainted with the members of that Committee, with whom I am better acquainted. I came here with the preamble of the Constitution of the United States before me, as the preamble which alone was the proper model, a preamble of wisdom, and felt obliged to advocate a preamble which has stood for so long. In searching for preambles, after which we should model ours, I find there sufficiently set forth in three great states, and those states are integral and perfect states of themselves. Id the adoption of those preambles and constitutions was exclusively domestic, having no extra or foreign relations, or any power of any other state. For instance, the state of New York has had a Constitution and preamble which has had the recognition of the United States for years. It says that the State should always retain that constitution, and it is brief.

It involves no demands, and every other state adopting it did so under just such circumstances of domestic and doctrines of exclusively. It never goes beyond that. (Here he reads from the Constitution of the State of New York.) It never goes beyond that.

It considered its acts strictly domestic, and that the people of the United States should retain this Constitution.

And now, then, when one of my charge belonging to the fold, of which I have charge, come around my premises, it is nothing more than an ordinary circumstance, but when a stranger comes common courtesy demands that he shall have a courteous introduction, which shall involve some explanation, some apology for his coming. And the first instance, gentlemen, to which I shall call your attention to is this: Now, when the people of the United States adopted this Constitution they felt this same necessity. And the preamble is that involved in the declaration of independence and you will find that that is principally in support of this action, and is involved in the last section, the last paragraph of the Declaration of Independence, and where can you find a more courteous preamble than that?

Now, take the attitude of the United States. They were not recognized by any nation on earth. What did they do? Why, in adopting that Constitution, they felt the need of a courteous explanation of their conduct, and the opening words of that preamble are these: "When a people having sustained bonds of relationship to another, finds it impossible to sustain them longer." Now, what is more courteous than that? And history will bear me out in the assertion that that preamble was in the nature of an apology and I do not know where you can find better language. It is full of courtesy, and it is winning, and that preamble won for the United States in the hearts of the people of England. It is a grand thing, that I would not have go out of history.

Now, Mr. President, I think it is this very thing that some of the states when they felt the need of statehood, formed a constitution, surrounded with nothing more than their ordinary domestic relations. I offer as an illustration of this the first clause of the preamble of the Constitution of the State of Michigan. It simply involves the rights upon which they expect to stand.

Just one thing more, Mr. President, and I am done. I believe if I were a member of Congress or President of the United States, and Dakota with that Constitution in its hands came up there, I should have that same feeling that I have already expressed here. Now, gentleman, when you introduce your friend, if you say a little something about him, that I may catch on to him a little, I think it is better for all concerned. That is the only need of a preamble. It is full of respect, but if you come up with too much assurance. The people of Dakota come here with this intention, with this color of right. A delegate considered that we should bring to your attention these things. We have a right to admission into the Union on the original vote, and we have a right to give expression to the rights which we represent. It is a right accorded to us in the past, and we come here loving the mandates of the Constitution and ask the blessings of Almighty God upon our act of statehood. And finally I command to you the minority report of the preamble, take into consideration these things and make any disposition that may seem to be good.

Mr. Williams: The gentleman who has so eloquently defended the minority report, forgets one fact in history; the ordinance of 1787 does not apply to us; it is one of those obsolete declarations made at the close of the Revolutionary war, and I think we have no claim to set up that declaration in our preamble.

Mr. Campbell: I observe that the amendment presented by the delegate from Pennington, is a preamble of the whole Constitution, and I coincide with his views. The preamble report of the minority is better in every particular, than the report adopted by the last Convention. Regarding the ordinance of 1787, it would not be necessary to say anything about that if it were not for the remark made by the last gentleman who regards it as obsolete; let me tell you that the ordinance of 1787 is by the best lawyers, classed next to the Constitution of the United States. In the last Convention it was discussed, and it was decided that it was an ordinance which extended to the people of Dakota, this question was answered in the affirmative, signed by the lawyers, signed by Judge Moody and Gamble, and others. Now the truth is that the ordinance of 1787 is a necessity all over this Territory, and in our Constitution we should recite these matters and bring them to Congress as pledges of the compact which exists between us, for them to consider. Therefore, I hope that the minority report will be adopted.

Mr. Brookings: I don't think it makes any difference whether it is in or out, it doesn't make one hair white or black, it will not get us in or out. But in this matter there is some danger that this minority report will do us no good, and might do us some harm; we don't know what view some Republican members of Congress will take of that minority report. It is claimed under the Louisiana treaty that we have the absolute right to be admitted as a state. Congress has the right to divide us into four states, or annex us to another state, or admit us as a whole, and now we don't want that minority report in there to embarrass us. We are not in the same position that our forefathers were when they declared themselves independent of England, we are not deprived of our liberty. Of course we want further rights, but we don't know what view Congress may take of these things. This question of Utah bothers Congress and the United States a good deal; if they say that we have the right to be admitted, why not Utah? I will not go over the argument with the gentleman on this minority preamble, but I call your attention to the fact that if you put that minority preamble in, there is every possibility that you might embarrass Congress, so that it might be the means of sending the Constitution back to us.

Mr. Fowler: I desire to withdraw the substitute upon talking with Mr. Campbell; he has an amendment to offer.

Mr. Campbell: I ask to amend the minority report.

By the President: The minority report is not before the Convention.

Mr. Campbell: As a matter of order the minority report should be considered first.

Mr. Updyke: Have we not the privilege of substituting the minority report?

By the President: Yes.

Mr. Updyke: I move that the minority report be substituted.

Mr. Campbell: I second the motion to substitute the minority report for the majority report.

Mr. Kanouse: I think that the question has been sufficiently discussed, and we have no time to devote here, to further discussion, but if the gentleman desired to put in an amendment I will hold that motion long enough to get the amendment in, but not for discussion.

Mr. Campbell: Insert in line 8 the following words: By virtue of the contract of 1787, etc. (Speaks so low the reporter is unable to catch the entire amendment.)

Mr. Frank: I desire to offer an amendment to the minority report. It seems to me that the words "south of the 46th parallel" should appear in the preamble, for the reason that this preamble is prepared by this Convention for the proposed State of Dakota, and in our action in this Convention we have fixed the boundaries of this supposed state, and if this Constitution is adopted and the State admitted under this Constitution, then the people south of the 46th parallel will be the people of Dakota; what they will be north of that I don't know and I don't care.

By the President: I think the Committee on Phraseology will probably correct that.

Mr. Williams: I desire to state the reasons which induced the majority of the Committee to adopt the report as it is.

Mr. Britton: It seems to me the Committee of the majority ought to have a word in here; Mr. Williams, as Chairman of this particular Committee, ought to be heard.

Mr. Williams: We listened to these arguments, and gentlemen of ability presented them; we decided to adopt the report for two principal reasons:

First: We did not think this was the proper place for the argument; committees have been appointed to prepare these arguments; other committees will be appointed probably to present the matter to Congress; we did not think the preamble to the Constitution was just the place to enter into arguments upon these legal propositions.

Again: While we were impressed with the force of the arguments, and believe them to be correct, from what information we had before the Committee, we were not fully satisfied, that lawyers of equal ability, interested on the other side, might show that our position was untenable, and it seemed better to us for that reason to avoid this argument based upon legal enactments; and we leave that for those who have the matter in charge to present it to Congress. They may say, so far as I know, so far I presume as most of the Convention know there may be good arguments, good reasons which may be brought to show that this position is not tenable; I do not say that it is not; but it seemed to me to avoid the possibility of getting an argument in the preamble where no argument properly belongs, we had better leave that with the other Committees.

By the President: The question before the Convention is, shall the main question be now put.

The motion prevailed.

The President: The question now recurs upon the amendment offered by Mr. Frank, of Lawrence, to strike out "south of the forty-sixth palrallel of north latitude," in lines six and seven.

Which amendment prevailed by a vote of ayes and nays, 28 for, and 24 against.

Secretary reads the amendment before the Convention, offered bv ———— which was carried.

By the President: The question now is, shall the minority report as amended, be substituted for the majority report.

Which motion was lost by a vote of 41 against, to 24 for.

By the President. The question recurred upon the adoption of the majority report.

Mr. Corson: I move in the majority report, to insert after,—

By the President: I do not think it can be done at this stage.

Mr. Britton: As one of the Committee, I would be perfectly willing that this be done; no objection being made.

Mr. Corson: I move to strike out all after the word "government" in the 4th line and substitute the last six lines of the old preamble.

By the President: Is there any objection to the proposed amendment? If not it will be considered agreed to by the Convention. The question now comes upon the adoption of the majority report as amended by Mr. Corson.

Mr. Moody: I do not like, however, to have what is not true; it is not true, we are not the people of Dakota; we are the people of that part of Dakota lying south of the dividing line.

The amendment offered by the gentleman from Lawrence is carried.

By the President: The report of the Committee on Impeachment and Removal from Office; the Secretary will read the first section.

Passed without amendment.

Section two is read by the Secretary.

By the President: There ought to be an amendment there. I would suggest to the Chairman of the Judiciary Committee, Judge Corson will make the verbal correction; there is no Chief Justice provided for, the word used I think is presiding Judge.

Mr. Moody: At the suggestion of the Chair I offer an amendment that it read Chief Justice instead of Presiding Judge.

By the President: There being no objection, the section is so amended.

Secretary reads section three.

Sections 4, 5, 6, 7 and 8 were read and passed without amendments being proposed.

Mr. McCallum: I think that Section 5 ought to be changed, and I move to strike out "he shall have been impeached" and substitute therefor, following the word "after", these words: "Articles of impeachment shall have been preferred against him". The way it stands the word "impeach" means simply the articles that are preferred; "impeached" in the past tense means tried and removed from office.

By the President: Have you examined Section 1?

Mr. McCallum: Well, it was read very hurriedly; I did not have the report when the reading commenced.

By the President: "The House of Representatives shall have the sole power of impeachment." When the House of Representatives have passed upon it it becomes an impeachment. They make a difference, I see, under this, between the trial and the impeachment.

Mr. McCallum: Then impeachment is equivalent to an indictment?

By the President: It appears so, under this first section. If there are no amendments proposed the question recurs upon the adoption of the report of the Committee on Impeachment and Removal from Office. (Adopted).

By the President: Referred to the Committee on Enrollment and Engrossment.

Mr. More, of Beadle: I desire to offer a resolution, and ask that it be referred to the Committee having it in charge.

(The resolution, which referred to certain instructions to be given the Committee on Arrangement and Phraseology as to the substitution of the 46th parallel for the 7th standard parallel, in the report of the Committee on Name, Boundary and Seat of Government, was filed with the Secretary.)

By the President: Is there any objection to the consideration of the resolution at this time?

Mr. Mason: I should object to the present introduction of it.

Mr. More: I move a suspension of the rules.

Mr. Moody: Is it necessary to move a suspension of the rules to make an instruction to a committee? I apprehend not.

By the President: We are now under the order established by the Committee on Rules and Order of Business for going through with the committees.

Mr. Moody: It is not only proper, but perhaps necessary, if the Chair is still upon that order, to pass it or suspend the rules.

By the President: I think we are nearly through with the committees whose printed reports are here.

Mr. Fowler: The Committee on Federal Relations have been unable to find anything to report upon.

By the President: So there will be no report?

Mr. Fowler: No report to this Convention.

By the President: Committee on Education and School Lands.

Mr. Ward, of Yankton: I supposed it would be ready by noon but have not seen the gentlemen who were elaborating it.

By the President: Rights of Married Women.

A Member: Not ready.

By the President: Manufactories and Agriculture..

Mr. Stone: The Chairman of that Committee is not present and we do not know where he is, but if he does not make his appearance we will try and have it handed in this evening, if there is any evening session.

By the President: The report of the Committee on Roads, Bridges and Other Internal Improvements has not yet been printed, but as it is very short, and we do not know when he can have it printed, the Secretary will read it as it is.

(Read by the Secretary and filed.)

Mr. McCallum: I move that the report be adopted. (Seconded and carried.)

By the President: We have now finished this order and the motion of Dr. More, of Beadle, is in order.

Mr. Mason, of Brown: Is it in order to discuss that point about the submission of Dr. More's resolution?

By the President: Yes, sir.

Mr. Mason: Mr. President, and gentlemen of the Convention: I am sorry that I am forced to occupy the attention and the time of the Convention, because it is valuable—much more so, probably, than my presence.

We of the north have come into this Convention, and of course the first resolution that was introduced was introduced by representatives of that part of the proposed state: You voted us out: we acquiesed in that decision: we turned around, and instead of trying to block the wheels and prevent the making of a good Constitution we have entered into this with all the zeal and earnestness that we have been capable of, so that we might, in the event of our becoming a state, have as good a one as we could. We could have united with various minorities and we could have loaded down this Constitution, as in part I fear it is already, so that it never would receive the sanction of South Dakota; but we have not done it; we have come right up square with you, gentlemen, and we have showed to you, I believe, that we were honest in our opinions even if we were wrong in our reasoning.

The resolution has been passed that this Convention adjourn until next April, I believe, so that in the meantime when Congress meets, if they find anything that they do not recognize as just and proper, they will refer it back to the Convention. Now, gentlemen, in all fairness, equity and justice, I ask you not to go back upon the decision you have passed upon, but allow those people of the north to know that you were willing to comply with their wishes if you could. If Congress says it is to be the 46th parallel, let them send the Constitution back, as they undoubtedly will, and let us meet here and acquiesce in the judgment of Congress. I do not wish the Convention to understand that I am a prophet at all, or even the son of one, but I ask you to bear in mind that I want the representatives of this people to look well to the fact that upon the first Tuesday after the first Monday in November, when that wave comes down from that row of counties on the north, that unless you do put it on the 7th standard parallel there will be from five to seven thousand votes cast against this Constitution that you would have had if you put it on the 7th standard, even though Congrcss says it is not right. If it is not legal and right I acquiesce in the judgment of Congress, but gentlemen, if we can, I ask you as freemen of South Dakota, to comply with what the people there desire. (Applause.)

Mr. Owen: I do not care what the northern boundary line is, but I look upon this simply as a matter of law. I believe we shall be more likely to find our work amount to something if we adopt the 46th parallel. The act seems to lead to no other conclusion.

Mr. Corson: I do not need to make any remarks about this matter. Some of us can not understand why there is such an effort to substitute the 7th standard parallel for the 46th parallel of latitutde. It seems to me that the 46th parallel of north latitude would be the natural boundary. Of course, it might transfer some few farmers from North Dakota to South Dakota, and some from

South Dakota to North Dakota, but how that can affect the people more injuriously, I fail to see. If the admission of Dakota, is going to be so injurious to the people of South Dakota, it seems to me that we should hesitate about adopting that Constitution. The fact that some would be left in South Dakota, or some in North Dakota is to be such a great injury to the people of all South Dakota, we might hesitate about adopting that Constitution. We are proceeding, sir, with the organization of a state, because it will be a benefit to all the people, and I see no reason why those few living north of the 7th standard parallel should have such an objection to coming in and being a part of South Dakota. It seems to me, Mr. President, that there must be something behind this, that this Convention don't quite understand. Now, Mr. President, we have the opinion of that eminent lawyer and Chairman of the Judiciary Committee, it is quite clear that we are acting under the act of the Legislature. We are here under this act, and to do expressly what this act authorizes us to do. That act authorizes us to act for that portion of South Dakota lying south of the 46th parallel of latitude. We not only have this act, and the opinion of the Chairman of the Judiciary Committee to guide us, but it seems to me that it will be creating astonishment everywhere. Why the people should adopt a standard only partially ran, running to the Missouri river, and there it stops, and as some gentleman has said, is crooked, and jaggy, and the surveyors are unable to find it, why we should wish to adopt this line for a straight boundary, I can not imagine. While this is the boundary line, and the records of the 7th standard parallel, we must have the records destroyed. Now, the 46th parallel of latitude can be found at any time by any competent man, while the 7th standard parallel is crooked, and uncertain. Now, Mr. President, I am reluctant to enter into this discussion, but it seems to me that we ought not to adopt a zig zag line, when you have a line that can be ascertained at any time by any competent man. Then we have a boundary, that we will always know and understand, the north boundary; the 46th parallel the south, Nebraska, and the east Minnesota and Iowa. So that I believe we will then have boundaries, well perfected, well defined, and can be ascertained at any time. I ask this Convention to consider that, and let us adopt the 46th parallel of North Latitude.

Mr. Moody: If any gentleman desires that this matter shall go to the Committee, certainly I shall be exceedingly glad to consult all the members of that Committee on this question. When this question was before the Convention yesterday or the day before, I was asked the question, but I was unable to answer it; I suggested that I would examine the law, and I desire to answer the question asked on the floor of the Convention. I did examine the law at the request of a member of the Convention who had a formal request in his resolution to that effect. Now, there has been no meeting of the Judiciary Committee. Several of the members I have talked with, and if any member desires, certainly I should be glad and am anxious that it should be referred to the Judiciary Committee, for the purpose of having the opinion of all who are members of that committee. Again I repeat what I said. I have no personal interest or feeling on this subject. I had thought that all agreed that when the Territory was divided it is to be upon the 46th parallel or North Latitude and the people living south the 46th parallel of North Latitude are preparing for admission into the Union. Regarding the 7th standard parallel, we have heard a great deal about its inaccuracy; we know nothing about it; we can not rely upon anything concerning it, and there is no information that is put before this Convention of anything authentic regarding it, except that it will cross the Whapeton and Sisseton Reservations. Yesterday, I stated that we know the views of our friends in Congress upon this subject, because on two occasions both Committees, from both houses, after the most careful consideration of the question, both committees, of both houses, when both houses were friendly to us, adopted this line as the boundary, the 46th parallel, and we know that the Senate at its last session, adopted and asked it, and it was the house of our friends. Now, if there had been any question about it, certainly they would have hesitated about adopting that as the line, the line which they preferred. And if any enabling act is passed, undoubtedly they will adopt this same line.

Now, I am gratified at the remarks of the gentleman from Brown. I was glad to hear what he said upon this question.

Certainly we were all glad to know that when they could not carry a proposition in this Convention, which to themselves they were in duty bound to submit—the dissolution of this Convention and its adjournment—they then joined heartily with us in performing that duty enjoined upon us by law, and they are deserving of all the credit that any member of this Convention deserves for the performance of that duty. I certainly shall meet them—notwithstanding in that, I thought they were performing an act that was injurious to the people of South Dakota—I shall be ever ready to meet them, and take them by the hand as brethren in one great commonwealth, and I trust that the great county of Brown, which is the pride of the state will be well pleased with the course their representatives have pursued here. I was informed some time ago that at a recent gathering of the people from all portions of that county, when the speakers referred to the question of admission and division they were applauded by the people of Brown up to the very skies. (Applause). Though I believe the citizens of Brown are as loyal to the State of Dakota as any other citizens of the State can be, and I don't blame this gentleman one bit for insisting as they do that the boundary line of this State would come on the 7th standard parallel; there may be reasons that we do not understand; possible they think that by this little strip of country being added there, it will in some way interfere in the future with certain of their local interests, possibly there may be county seats, or town sites to be considered, that we don't know. It is not a matter of interest in any one spot in the state, as said by the gentleman who has our interests at heart, and who stands high in the councils of the nation; when people are forming the boundary of a great state, they can not afford to take into consideration here and there a man's interest. We don't know with reference to the 7th standard parallel, where the 46th parallel is. I have been informed by one of the best surveyors that the 7th standard parallel was within a mile and a half or two miles and a half of the 46th parallel. If this is true all the objections of the gentleman would vanish. In addition to that, Mr. President, I find several gentlemen representing counties lying along that line are here opposing that line which you seek to establish along the 7th standard. They are as loyal as the gentleman from Brown, so you see there is no union of sentiment along that line. We cannot afford to accommodate men on this floor, we must submit to the conditions of the great question in which we all have a common interest. If you divide on the Missouri river you get a crooked line, as is the northern boundary line of Nebraska. It was considered as being along the main channel of the Missouri river, at that time the main channel of the Missouri river was miles from where it is now, and we have had much difficulty in our courts as to where that line was along the river where crimes have been committed, and it is still to be settled what the line along the northern boundary of Nebraska is. Now the line which you seek to establish, the 7th standard, will lead you into the same difficulty where it intersects and crossed the river. Lying north of this line they hope and expect that country to become a state, and whenever we can get into the Union as the State of Dakota, and our brothers in the northern part of the Territory shall make application to come into the Union, if it is but thirty days after our admission, we will use our utmost endeavors to put them also, into the Union, (Applause). And now we have not upon this floor a representation of the people above the 46th parallel; we have determined it upon the desire of the people living in the counties south of that line, some want it on the 46th and some on the 7th. And then when we come to describe it in the preamble we say who it is that are applying for admission into the Union, we say the people of Dakota; it is not o it is we, the people in Dakota living south of a certain line. If e is any desire of one man or a number of men in this Convention that this resolution shall go first to the Judiciary Committee, I will with great pleasure call that entire Committee together at once, upon the adjournment of this Convention, and I will get the opinion of each member of that Judicial Committee and report it to this House, so that you may know exactly, what is the opinion of each gentleman on that Committee.

Mr. Mason: I wish to call attention to one or two points as given by the gentleman from Lawrence; the first is about how the citizens of Aberdeen responded to the words of orators there, over admission and statehood. I have advised my people, the people whom I have the honor to represent here, of the doings of this Convention, that they had sat down on us, and applied the gag law and would not allow being admitted as a whole to be discussed. I believe there was a feeling that we would carry our point. That is where the reaction set in, there was a spirit of indifference up there when we came down here; but the reaction began to set in when they were advised that this Convention was willing to conform to the feelings of that community when it didn't amount to anything to the rest of you. Another point that the gentleman makes is that we should put into our preamble that: We, the State of Dakota, south of a certain line. I say that is not correct; we should put into the preamble: We the people, south of the 46th parallel, because there isn't a person north of that represented on this floor. You have adjourned until spring, until Congress takes into consideration this matter, then you will meet again and conform to the wishes of the people, and if Congress sends it back, we will acquiesce in your decision.

Mr. Moody: I want to say, as I had forgotten it, that this Convention adjourns until April. The boundary of the State is a matter of such importance that Congress would not consent to let any body of men regulate that question without the vote of the people. It would require the vote of the people to carry that. We adjourn to April, simply to keep the Convention alive.

Mr. Mason: I ask that the ayes and nays be taken to divide the boundary on the 46th parallel instead of the seventh.

Mr. Crose: I believe that I am in the position of a good many in this Convention who would like to vote upon that which would be for our best interest. When it was presented before, I thought that it should be on the 7th standard parallel, and I am perfectly willing that it should remain there if it does not injure our interest, but if it cannot, and it is necessary to have it on the 46th parallel, I would like to change my vote. And while we have the opinion of Mr. Moody, whom I am willing to trust, I see no reason why this should not go to the Judiciary Committee.

By the President: It is too late.

The vote stands 60 ayes, 18 nays.

Mr. Moody: I move that a Committee of five, of which Mr. Campbell, of Yankton, shall be chairman, be appointed for the purpose of taking into consideration and reporting to this Convention what steps are necessary in order to perfect this movement nd put it into operation after the adjournment of this session nd also what may be necessary in the way of providing therefor.

Mr. Campbell: Make it fifteen.

Mr. Moody: I accept fifteen.

Which motion prevailed.

Mr. Corson: I move to make the report of the Educational Committee the special order for this evening.

By the President: There is a special order, for half past seven already.

Mr. Neill, of Grant: I move the following resolution; that the Committee on Schedule be instructed to provide for polling places in the counties of Edmunds, McIntosh, Dickey, Sargeant and Richland.

Which resolution was duly seconded and carried.

On motion Convention adjourned until 7:30 o'clock this evening.

Convention called to order at 7:40 P. M., the President in the Chair.

By the President: The Secretary will announce the Committee appointed under the resolution of Judge Moody.

By the Secretary: Campbell, Booth, Frank, Grant, Kellam, Kanouse, Neill, Alexander, Gault, Haines, Brookings, Dollard, Wright of Brookings, Williams, Owen.

Mr. Moody: There is a subject I desire to call the attention of the Chair and also of the Convention to, and that is this: I have found and shall find it entirely impossible to prepare a memorial to the President and Congress of the United States before this session shall adjourn. Of course such a memorial will not be needed unless this Constitution is ratified and adopted by the people. It is a memorial to be presented to the Congress of the United States, and I may say that it should be and will be circulated, if I have anything to do with it, generally throughout the United States. In that memorial my own view and also the views of those members of the Committee with whom I have talked, is that we should make a case; as strong a case as can possibly be made with the material which we have, and it is ample, showing the fact, first, that this Territory, whenever it has spoken with any authentication has with almost universal unanimity asked for a division of the Territory, second, that with the division and such areas as has been selected it will make a strong substantial state, and third, that we have complied with everything that has been or can be demanded of us for admission to the Union. My own desire is to set forth with that memorial certified copies of all the public acts upon that subject by this people, together with the vote by which those public acts were performed; and of course that necessitates considerable labor on the part of the Secretary of the Territory, who is perfectly willing to be put to that trouble, but we should pay him for what clerical force is necessary. Now, if the Convention is of the opinion that that memorial should be drawn before the Convention adjourns then I ask that that duty be imposed upon someone else than myself, in connection with that Committee. I am willing to spend all the time and energy necessary to assist the balance of the Committee to prepare the memorial. I want a plain, square, lawyer-like presentation of the case.

By the President: The resolution does not prescribe any time in which that shall be made. I know my understanding was that that address was not to be provided until after the election, so we could know whether it was necessary to make the address or not. Unless there is objection made I shall assume that that is the interpretation of the Convention. I hear no objection and take it for granted that that is the interpretation of the Convention.

Mr. Moody: I would rather the record would show it.

Mr. Neill: In order to bring this matter before the Convention I move that the Committee on Memorial determine among themselves how and when they provide this memorial. (Seconded and carried.)

By the President: Is the Committee on Education prepared with their additional report?

Mr. More: They are prepared, Mr. President.

(Report was read by the Secretary.)

Mr. Jessup was called to the Chair.

Mr. Edgerton: Mr. President, I have been very anxious that this school fund should be protected by every possible guaranty that we know of. I opposed the other day the investment of this fund in farm mortgages because I did not believe that it was a safe investment for the school funds. And if this additional bill proposed that the State officer should allow that fund to be invested in farm mortgages I should still think it a very unwise provision, but I understand that in this the counties shall guarantee the payment of the fund and of the semi-annual interest to the State, that the principle and interest of that fund shall be paid to the

State, and that the counties loan it upon the farm mortgages or otherwise. Now, while I may have my own opinion as to the propriety of the counties doing this, it removes every objection that I had, so far as the school fund is concerned. I am inclined to think that so far as the State is concerned and so far as the school fund is concerned, it is now perfectly safe.

I opposed the other day the rate of interest being 6 or 7 per cent. for the reason that I could see no possible reason why the purchaser of these lands should pay a higher amount of interest than it was possible for us to invest the money, provided it was paid in money. In other words, the purchaser of these lands, if he paid in money under the long time bonds we could only re-invest at 4 per cent. at most. I thought it was unwise. I was opposed to his paying six or seven per cent. when it was impossible for us to re-invest the funds for over 4 or 4½ per cent., but under this bill the counties will guarantee six or seven per cent. Now, if that is true, it does away with the objections I raised a few days ago. But under the provisions of this bill, the gentleman assures us that the counties will guarantee the State 6 or 7 per cent. Now, if that be true, the counties will. I thought that perpaps it was due to the Convention that I should make this statement.

Mr. Moody: I will ask the consent of the Convention to interrupt these proceedings only a moment, so that the Journal of these proceedings will be complete in regard to this adjournment. I believe it is not very material to which day it adjourns. I will move that when this Convention adjourns, after drafting a constitution, and making provision for its admission, it adjourn to the third Tuesday in April, 1886, and then such members as shall convene shall adjourn from day to day as such members shall deem expedient, under the circumstances. And I ask, if there is no objection, the blanks be filled with "third Tuesday in April."

Delegate: The only objection I see is that April is a very busy month, as the farmers possibly could not come.

Mr. Moody: One or a half dozen can adjourn the Convention to a day certain. It is only a possibility—

Delegate: Call it the first Tuesday.

Mr. Moody: Would the first Tuesday be satisfactory to all?

Mr. Dow: I think the third Tuesday would be better.

Mr. Moody: Mr. Chairman, I will ask you to put it to a vote.

By the President: On the resolution as moved.

Mr. Moody: Yes, sir; there is a previous question.

Delegate: We will waive the previous question.

Mr. Moody: The trouble is this; of course the bill will be introduced, that is, reported back on the Senate, and an examination may disclose the necessity of something else. We want to keep this Convention alive, as we have a right to do, until the final determination of the question. We want to keep it alive; that is all.

Delegate: I think it would be much better if we make it the first Tuesday in May.

Mr. Moody: Very well; I have no objection.

Delegate: About that time, if we have the usual weather that we have been having for the last 3 or 4 years, the farmers would be in the midst of their spring work.

Mr. Moody: Then I move that the blank be filled "the first Tuesday in May, "Wednesday, the first Tuesday in May."

Delegate: Can you name the hour?

Mr. Moody: At ten o'clock in the forenoon.

The motion is seconded.

Mr. Tousley: I think that the time is rather late in the season. There are a great many farmers—

By the President: Just a moment, Mr. Tousley. It is moved and seconded that when the Convention adjourn, it be to meet on the first Tuesday in May, at 10 o'clock, A. M.

Mr. Tousley: I would make an amendment by inserting the third Tuesday in March.

Mr. Moody: That is too early.

Mr. Tousley: I disagree with the gentleman. For that reason in the southern half of Dakota—

Mr. Fowler: I call for the previous question.

Mr. Tousley: We all know that that period in the month, farmers in this section of the country have not much to do, and we have a large sprinkling of that element of farmers here, and I know during May is a bad time to ask farmers to leave their homes —during the planting season. And I think it very much out of place to call on us to leave our work during the planting season to come here. We would all be anxious to come here—

Delegates: Question! Question! Question! Question!

The motion is carried.

Mr. Ward, of Yankton: I would just like to interrupt the Convention a moment to introduce some petitions in favor of woman suffrage—petitions that have just come to hand.

Mr. More: The Committee on Education and School Lands would like to have Mr. Haines make an explanation in regard to this report.

Mr. Haines: The general outlines of this report, Mr. President, have been incorporated in former remarks. That is all covered in the statements, excepting in so far as the principal and interest of United States is concerned, so that the counties will be made responsible for the principal and interest.

The first subdivision of Section 11 as before the Convention provides that investments shall be in farm lands and bonds of school corporations, and bonds of the United States and State of Dakota. The Committee would simply amend by inserting the words "bonds of school corporations" in that and the other subdivisions of that section. We did not like to shoulder the responsibility without calling the attention of the Convention to it. There are arguments for and against these securities as investments. It is not proper to say school township bonds, unless we can tell what organization there will be under the State organization. Now, the question is, is it advisable for counties to offer to assume under the construction of the legislature, the investing of moneys in bonds of school corporations? The privileges given them in this separate subdivision provide a method of dividing the amount of said township investments from time to time in the classes of securities respectively, having due care to the securing of continuous investments.

The second subdivision provides in substance that these moneys shall be apportioned, so far as the provisions of the law looking towards continuous investment, will permit the moneys of counties in proportion to their population, and these counties shall become responsible for the principal and interest. Then the subject I call attention to is in respect to the paying of interest. There will be a liability from the day of their receiving it until they return the same. The Committee thought it unadvisable to send these moneys to counties and charge them interest from the day of investing, for the reasons: 1. That there would be a temptation to let the money lie idle in the vaults of some bank; and the second would make a confusion in the matter of the county's interest. Further, the counties may cover in their treasury's one per centum of their investments, but they shall not fall below one per centum in their payment to the State treasury. The same system has been enforced in Iowa, and until recently the counties have got to make good the interest at the rate of 10 per cent., and get nothing for the trouble of investing, except I believe that the Legislature has provided borrowers shall pay it in advance.

Now, while on that same subject, it is provided, in order that counties may not be compelled to pay interest on moneys lying idle in their county treasuries, that whenever they accrue $1,000, they shall be sent back to the State treasury, and the counties shall pay interest semi-annualy on the first day of January and July. I believe that covers the general provisions. There is a further additional section proposed by the Committee, in addition to what was submitted in their printed report, which is as follows: (Read and filed with the Secretary.)

Mr. Dow: Inasmuch as the Committee have recommended that the minimum rate of interest shall be six per cent., we are very glad to agree with our honored President in the suggestion that six be substituted in the place of four as has been done by the action of this Convention. As to the rate of interest it strikes us that it will not be practicable or advisable to limit the legislature so but that they may make this money take the greater rate of interest. If this money is sent to counties there will be danger of favoritism; of course there is danger that the county officials may use favoritism.

Mr. Corson: I desire to make a motion. I call attention to Section 5, line 25, and would suggest that the following words be added, strike out in line 25 the words, "not less than fifteen years", and insert the words as follows: "One-fourth in five years, one-fourth in ten years and one-fourth in fifteen years." It occurred to me in looking over this section that it will be somewhat difficult to sell the land, most men are anxious to get rid of their indebtedness as soon as possible, and they dislike to take property and pay one-fourth down and leave a balance of three-fourths remaining for so long a term as fifteen years, it seems to me a very long term, during that time they could get no title. It seems to me that every man would desire the privilege of paying one-fourth in five years, as I have suggested, and leave only one-fourth to pay in fifteen years; and it seems to me that it would be better for the State. I submit it to the Convention. I would much prefer that method, and I presume every man would who is a farmer and desires to relieve his property of encumbrance. Leave but one-fourth to pay in fifteen years, then if anything should happen to the husband or father in the meantime, the family could probably manage to pay it in that time.

The amendment is adopted.

Mr. Ward, of Hughes: I move a reconsideration of the vote whereby the word "seven", in this section, was changed to "four", and move to substitute six.

The ayes have it, the motion prevails.

Mr. Miller: I move to insert eight per cent. The reason why I do this is because I am satisfied that it is just as easy for this State to get eight per cent. on these school lands, as it is to get six. I am satisfied that the people would be inclined to put it at eight, instead of putting it as low as they are allowed to. The State of Iowa enacted that the rate of interest should be ten per cent.; this law went into effect and has continued in effect until a few years ago. They had no difficulty in letting out their school fund, and they had no difficulty whatever, in getting ten per cent.; and this lasted twenty years, at that time money was plenty and then the rate of interest was reduced. I believe that for the next twenty years we can get eight per cent. for our school funds just as easy as we could to let it out at six per cent. and it will give us more school funds than otherwise. I think it is a duty that we owe to our children, and to our neighbors' children. We should support schools of the first grade throughout the State. And my judgment tells me that this arrangement would be best, and I move that we make it eight per cent. instead of six.

Mr. Brookings: I don't look at this matter as does the gentleman from Hughes. I read lately that millions and millions of dollars are in the Bank of England at three per cent. Suppose you put it out at eight per cent., and then you should want to sell your land in five years or fifteen years, I don't want to buy that in. You can probably get eight per cent. or ten per cent., they will probably give it to you, but you must leave it so the Legislature can take six per cent.

By the President: The question is upon the amendment proposed by Mr. Miller, of Hughes.

Which amendment prevailed.

Mr. Britton: I move to amend Section five by striking out the word "four" in line 26 and inserting in lieu thereof, "six".

Which motion prevailed.

Mr. Moody: I move the adoption of the report as amended.

Mr. Haines, of Turner: The suggestion is made, which is a good one,—to this effect that there should be a provision here that it may be paid up at any time by paying two years interest in advance; the idea being that the land be freed from this incumbrance for instance a townsite might want to be laid out on school lands and under this law could not be platted at all. I move to that effect.

Mr. Ward of Yankton: I move the adoption of the report,—the supplemental report that has been read.

Mr. Wright, of Lake: I understand the gentlemen were somewhat in doubt about investing this money in school bonds; if there is any doubt in the minds of the Committee I think we should remove that doubt; I wish to understand it.

Mr. Moody: Is it mandatory or simply permissive?

Mr. Mason, of Brown: I would like to ask a question here; if I was owing any of you gentlemen a note, due in six years, and wished to pay it at the end of five years and you said yes, provided I was to pay double interest for the last year, whether you would not authorize me to consider yourselves a fraud? (Laughter.)

The motion of the gentleman from Yankton prevailed.

Mr. Wright, of Brookings: I would inquire if the intent of the report just read does not require payment of interest semi-annually?

A Voice: Yes.

Section twelve is read and passed.

Also section thirteen is passed.

Section fourteen read.

Mr. Haines, of Turner: Mr. President, I move that after the word "cash" in line 27, there be inserted these words: "Provided that upon payment of interest for two full years in advance the full purchase price may be paid at any time." That is Section five, line 27.

By the President: The full purchase price, or the unpaid purchase price.

Mr. Lowthian: I would like to ask the gentleman a question; whether that is a money loaner's principle.

By the President: That is to allow school funds to be re-invested, so money shall not lie idle; it is giving the privilege of coming in at any time and paying up when they want to sell, and allow school funds time to be re-invested so there shall be no loss of interest; it is not an uncommon or unusual provision.

Mr. Coffin of Beadle County: It seems to me two years is a long time in which to invest this money; I don't think there would be any injustice done for allowing one year; I do not think the money would lie one whole year idle, it would be invested safely before a year was gone. If a man simply wished to clear his place of an incumbrance, paying one year's interest would be all right.

Mr. Britton: I would ask the gentleman how that would effect the title?

Mr. Haines: The Chairman of the Committee says one year is perfectly satisfactory to him and that it would be to the rest of the Committee.

Mr. Britton: I just rise to inform myself; as I understand it the object is a permanent investment of the school funds; it just gets the money right back into the hands of the Treasurer for re-investment; it seems to me this is not the principle; sell it on long time so as to get a safe investment of our school moneys.

Mr. Brookings: I move to make it six months.

Mr. Moody: You might as well sell it for cash.

The amendment offered by the gentleman from Minnehaha, is lost.

Mr. Miller: I move the adoption of the report.

Which motion prevailed.

The report is referred to the Committee on Engrossment and Enrollment.

Mr. Moody: I desire to offer this resolution.

(The resolution here read tendered the thanks of the Convention to Sec'y. Teller and Auditor Caldwell, for courtesies extended. Filed with the Secretary.)

(Seconded and carried.)

Mr. Moody: I also offer the following:

(The resolution here read requested the Secretary of the Territory to furnish such documentary facts from the records of his office as might be required by the Memorial Committee. Filed with Secretary.)

(Carried.)

Mr. Coffin: I have a report from the Committee on Rights of Married Women. One member of the Committee was not here and consequently could not sign it: (Report read by Secretary.)

Mr. Corson: I move the adoption of the report. (Seconded and carried.)

By the President: I will read the balance of the reports that have not been acted upon yet: Report of Committee on Schedule; Miscellaneous Subjects; Arrangement and Phraseology; Manufacture and Agriculture; Expenses of the Convention.

Mr. McCallum: If it is in order I would like to inquire what decision, if any, the Chairman of the Judiciary Committee has arrived at concerning Sunday pay of the stenographers; I believe that was referred to him for decision. I am informed that these stenographers would like to know because they are at present unpaid for a certain amount which they claim, and they are depending upon the decision of that question.

Mr. Moody: Mr. President, I did not hear the remarks of the gentleman.

By the President: The inquiry is whether you have made any decision in reference to the pay of the clerks and stenographers.

By Mr. Moody: I was just preparing the resolution. I will prepare the resolution, but if there is haste the Chair can put the motion now. My resolution will provide this: That the Secretary, Assistant Secretary and Transcribing Clerk be allowed the per diem of a member who has attended all the sessions, which of course will include Sundays, because I understand that they have been obliged to bring their work up on Sundays, and I am informed that one Sunday under the order of the Convention the Sergeant-at-Arms has been compelled to be here looking after the property of the Convention and assisting in arrangements, and I shall report a resolution in favor of paying him for that day. The Stenographers are paid by the day for their labor and they are paid also for the transcript which they furnish, and certainly they ought not to expect any per diem for the Sundays. If they have worked Sundays it is in bringing up their transcript which they get pay for. While I do not desire in any sense to be penurious, still I am not disposed to be so liberal as to be unjust to the trust imposed upon us. I have endeavored and shall endeavor to keep the expenses within the limits of what we regard as necessary.

Mr. Neill: I am heartily in favor of allowing those officers mentioned by the Chairman the per diem over Sunday, but I am opposed to allowing it on the ground that they WORKED ON SUNDAYS! (Laughter.) (The resolution was adopted.)

Mr. Tousley: I would like to ask if time is going to be allowed for going and coming to this Convention?

By the President: I presume time will be allowed, but no pay! (Laughter.)

A Member: I move that we adjourn. Seconded and carried.

The Convention stood adjourned.

SEVENTEENTH DAY.

Thursday, September, 24, 1885.

The Convention was called to order at 9 o'clock this morning by President Edgerton.

Prayer was offered by Mr. More as follows:

Father Almighty, O God of Heaven, regard us mercifully this morning. Hitherto Thou hast kindly preserved us, and we render Thee thanks. We have sought counsel of Thee, and we have prayed that in our work there might be some harmony, and we have prayed that the final result might accord with Thy will. We have prayed that all discordant feeling might be harmonized, and we thank Thee Heavenly Father, that the result hitherto has been so fully in accord with our desires and our prayers, and now we pray that the remaining hours of our session may be guided by Thee, and that the result will be in accord with Thy will. Let Thy blessing rest upon the Territory, and wilt Thou, in Thy wisdom, guide this Territory into the sisterhood of states, and we pray Thee, this morning, that a blessing will rest upon each member of this Convention and that Thy blessing be upon this Convention, and the homes we have left behind. Bring us presently to those homes in health and peace; and we pray Thy blessing upon the nation. Let Thy blessing be upon the President of the United States, and all that hold authority under him; and we pray that the government may be preserved; and a blessing upon all the nations of the earth, that they may learn that the highest interests of humanity are by peace. Forgive us our sins, and accept us when death comes, for Christ's sake,

AMEN.

Mr. Proudfoot: I have a letter from the Convention at Aberdeen, held on the 16th and 17th of this month, and it desires to make some suggestions to this Convention; I ask that it be handed in and read.

The Secretary reads the communication.

Mr. Mason: I would like to ask leave of absence for the remainder of the session.

Mr. Campbell: I ask the gentleman to remember the resolution which was passed yesterday, that he shall not leave his seat until he puts his name upon the Constitution.

Mr. Campbell: The Special Committee appointed by the Convention for the purpose of making a report of the necessary expense, in carrying out the provisions of the act, are now ready to make a full report.

The Secretary reads: The Special Committee of fifteen have had under consideration the motion referred to it and submit the following resolution, and respectfully recommend its adoption. Resolved that—

Mr. Campbell: I ask unanimous consent that we take up this resolution, and act upon it, as we have but three or four days more.

By the President; I ask that the report of the Committee may be changed in one particular; that is, that we draw the warrant in favor of the President of the Convention, I ask that it be drawn in favor of the Chairman of the Committee.

I do not believe quite a portion of these expenses are contemplated by the Article; I suggested fairly to the Chairman of the Judiciary Committee. Of course that being the fact, while I shall submit to the will of this Convention, I would rather that the warrant be drawn in favor of the Chairman of the Committee; inasmuch as I believe a portion of these expenses are not contemplated by the Act; that it should not be drawn to an officer who believes that it is not contemplated by the Act; I make no criticism upon the expenses or any portion of them.

Mr. Campbell: I will state to the Convention, the Chairman of the Judiciary Committee was in session with us; sat in the session until nearly twelve o'clock; it was very evident to us all that some provision should be made out of the funds that the Legislature granted, or else the whole thing is to fall back.

We understood; we had less doubt about acting, because we understood Judge Moody, from the Chairman of the Judiciary Committee that he had had a conversation with the President of the Convention and Judge Moody reported both his own views and the views of the President of this Convention; rather than have any question about this, while we do not wish to lose much time, if the President of the Convention would be willing to grant further time until sometime today; I would prefer this until we could have a consultation about this.

By the President: I wish to say simply the Chairman of the Judiciary Committee and I did have a conversation; we took the law and compared it together and analyzed it as best we could in a very short time; but I unfortunately came to a different conclusion as to the legal aspect of this case; I have reason to believe that we differ conscientiously upon this proposition; he thinks it is perfectly legal under the law; I think otherwise.

I do not ask this to prevent this appropriation in any manner, but believing as I do now, that I have no authority to give that construction to the Act that calls us together here I do not see how it would be possible for me to endorse that action; I say why not draw it to the order of the Chairman of the Committee, or Secretary even; it is not that I desire to prevent the passage of this at all, but only under the objection that I must entertain as to the legality of the action. Let it run to the Chairman of the Committee, the Secretary of the Convention, or any person you may desire.

Mr. Campbell: I ask delay in this matter; I move the consideration of this matter be postponed until 2 o'clock this afternoon.

Seconded.

By the President: I wish it to be understood; I think it would be perfectly competent to distribute this Constitution; my objection does not go to the whole of the resolution.

Mr. McCallum: I wish to ask one question at this point. Does not the bill provide that no money shall be drawn except upon the order of the President?

By the President: It provides that the Convention shall do it; the Convention shall certify to the act; I will certify as to the act of the Convention; if that is all that is asked, I certify to it; that is not my act. I will certify to this act, gentlemen, without any reservation at all.

Mr. McCallum, of Beadle: I do not see why we need not settle this at once.

By the President: When the Convention passes this, I will certify to the act of the Convention; I will authenticate the act of the Convention; I ask that the warrant be not drawn to me, as I have very serious doubts as to the right; I ask that it run to the Chairman of the Executive Committee.

Mr. Campbell: Of course all we desire is to have the President perfectly convinced of the legality of the act. In order that we may have unanimous action on this I move that this be postponed and ask that the Chairman of the Judiciary Committee be added to this Committee.

Which motion prevailed.

The motion to postpone until two o'clock, also prevailed.

Mr. Neill: I wish to make a suggestion whereby they can be distributed in the newspapers; I think the better way to arrive at it, so as to get these copies where they will do the most good, will be to have the members of this Convention give the name to the Printing Committee, of some person or persons through whom the copies are to be furnished to each of the respective counties. There is no way to know what number of copies are wanted; we want to make them go over as much territory as possible, both with regard to the Norwegian and German copies.

A Member: It would be well to have the delegates have the copies sent direct to them.

Mr. Brookings: Mr. President, I did not hear the call number six, and I wanted to offer a section when we got to that number six.

By the President: O, yes, I called that and we have acted under it some time, but we will return to it.

Presentation of Resolution and Propositions Relating to the Constitution.

Mr. Brookings: I wish to offer a section in the Constitution and would like to read it myself. (Here Mr. Brookings read his proposition which related to codification of laws. Filed.)

I have been in the Legislature myself and I know the desire of some members to legislate; well, they introduce a bill and pass that provision and repeal all laws in conflict with it without looking through the Code to see what it really repeals. The great curse of this country is constant changes in the laws. These laws should all be very carefully codified. We should so govern this matter now that all future legislatures will be very cautious about making these changes. If a change is really needed by the people it will not be a difficult task to secure the necessary two-thirds of both branches of the legislature.

By the President: Do you ask the rules to be suspended and this considered now?

Mr. Brookings: Yes, sir. (Division called for and had.)

By the President: The rules are suspended and the Convention decides to consider the resolution offered by Judge Brookings.

The resolution was adopted by a vote of 31 for and 30 against.

Mr. Gault: Mr. President, I have a resolution to offer. (This resolution instructed the Phraseology Committee to insert the word "District Attorney" after the word "Treasurer", in the 8th line of Sec. 5, of the report on County and Township Organization. Filed with the Secretary.)

Mr. Gault: My object in offering that resolution is simply to clothe that office with the same dignity that is thrown around the Treasurer, Register of Deeds, etc., that is with regard to a very respectable class of young men who aspire to be District Attorney.

Mr. Owen: O, that is provided for in the Judiciary report.

(Division called for and had; carried.)

Mr. Brookings: It ought to be "County Attorney". Don't we call them county attorneys now?

By the President: No sir; we call them district attorneys.

Mr. Haines: The Judiciary Committee I think in reporting upon this subject used the word "State's Attorney". If we use district attorney why we may compel the legislature to provide for district attorneys as distinguished from county attorney. "States' Attorney" is the phrase used in the judiciary article and I am afraid you are running into some trouble here.

By the President; The Committee on Phraseology would probably rectify that.

Mr. Gault; I do not care what name is attached to that office, but just wish to cover that office.

Mr. McCallum: Mr. President, has the report of the Committee on Elections and Right of Suffrage, been disposed of?

By the President: I am informed by the Secretary that the disputed portion of it, in reference to the way it was to be submitted, was referred to the Committee on Schedule and the balance was adopted.

Mr. McCallum: If that is the way the record has it, all right.

A Member: That is the way it was disposed of.

Mr. Owen: Section 2 was stricken out on motion of Major Kellam.

By the President: The report of the Committee on Schedule is the first one not disposed of.

Mr. McCallum: Mr. President, I have a resolution to consider and would like to have it disposed of this morning.

(Read by the Secretary). This resolution was to reconsider the resolution of Mr. Neill concerning voting precincts. (Filed.)

Mr. McCallum: My first motion is to reconsider. (Seconded and carried.)

Mr. McCallum: Now, I offer my resolution as an amendment.

(Read by the Secretary.)

Mr. Stone: I certainly should be in favor of the motion, but I would like to know something about what position it would put those counties in; how those inhabitants would know which side of the line they would be on if they were very near the line.

Mr. McCallum: The Committee on Schedule could provide for that.

Mr. Lowthian: Does the act calling this Convention together mention anything of that kind.

Mr. McCallum: It does indirectly.

Mr. Lowthian: It does not, directly or indirectly.

Mr. McCallum: If the gentleman will read he will find out.

Mr. Lowthian: I have read the act half-a-dozen times.

Mr. McCallum; If those counties have an opportunity to vote upon this question they will send a majority down here against the Constitution,

Mr. McCallum: If that vote is counted, it will be impossible to determine how many votes were legal, and how many were not, and it will merely throw out the votes on this question, and count them for naught. Under this resolution it should be provided that those residing south of the 46th parallel should vote for or against the Constitution.

The resolution is read again.

By the President: Those of the opinion that this substitute should be adopted, say Aye.

By the President: The Ayes have it, and the substitute is adopted.

Mr. Campbell: I desire, if I can get the unanimous consent of the Convention, to take up another subject, which I desire to have the unanimous consent of the Convention, and move that the section submitting woman's suffrage to a separate vote be stricken out, and move that section 2, which has provided that the Legislature submit it, be restored. I hope there will be no objection to this, because we have a reason, and that is that the movers of this do not desire it submitted separately and if we do submit it separately we will be under this disadvantage. Friends of the movement will accuse us of this. If I can not get unanimous consent, I will move—

Mr. Dow: I insist that the gentleman should not be granted unanimous consent, because we feel as a matter of right that it should be submitted. In Section 2 we have a provision that mentions the same section.

Mr. Campbell: I move to get this section before the Convention, because it is an important matter. I move that the rules be suspended in order that we may have a vote on the subject.

Mr. Stone: Is this motion to be discussed?

By the President: Certainly it is; it is a motion to suspend the rules.

Mr. Stone: It does not seem to me, Mr. President, necessary to suspend the rules. We are taking up the thing, and going over it again and again. We might take up the time—

Mr. Campbell: I move that the article submitting the question of woman suffrage to a separate vote be stricken out, and in lieu thereof be inserted in the article on elections the original article—section—in Article 2.

Mr. Dow: I think that that motion is not in order, as the subject is not before the House.

Delegate: It is moved to suspend the rules.

Mr. Dow: I will ask the ruling of the Chair on that.

By the Chair: The Convention has a right to suspend the rules and take up any subject it sees fit.

Mr. Dow: Then, I desire to say a word on that subject. I am very sorry that the Convention should desire again to take up this subject. There are a few individuals, there are a very few, that are esteemed a little cranky on this subject. I think that the majority of this Convention are solid. They are willing to submit it to the people separately. It will not hurt the Constitution to submit it separately, but if they so decide that it shall not be submitted, I am perfectly willing. I am not anxious about this subject. If the Convention is opposed to allowing the people of this Territory to vote on the question separately, at the time of adopting this section, then I am willing. We will have a chance to amend the Constitution. We simply want a vote of the people on this question, at the next election, and I believe the majority of this Convention is in favor of this question. We are perfectly willing that it should be submitted separately, although our first idea was to put it into the body of the Constitution. We are willing to submit it separately, and I trust this Convention is with us. If not, all right. We shall not shed any tears over the matter, and I trust no other persons will, but I am sorry to see a delay in this matter, when it has come properly before the Convention, and has passed by 78 to 10 in this House. Shall we take it up again, and reconsider it again, when a large majority of the Convention are in favor of it. A few members voted no, with the fear that it will be hurt. Now, they do not represent the people of this Territory, and I hope this Convention will expressly consider this matter, and allow it to be separately submitted, as it will get out a big vote for the Constitution. Those opposed to the Constitution will vote no, and in favor yes. Some may vote for the Constitution, and be opposed to this question, and so it will be getting votes for the Constitution.

I would hate to see the Convention take up this thing and reconsider and strike out that, after the majority voted 75 to 10.

Mr. McCallum: Now, let me correct the gentleman in the first place. He is referring to the vote of this Convention, agreeing to submit prohibition. It was a vote of 75 to 10, and this other was not. Now, Mr. President, I shall favor this motion, because it will be remembered that some of them go on the vote to strike out 9 and substitute 2 of that motion—was voted down. Since that time we have received from the original movers of that motion, letters, desiring that that be not separately submitted, but that Section 2 be left, as it was originally reported, by the Committee. You see that most of them rather reluctantly favor this motion, and I think the friends of this motion argee with me. This vote of 78 to 10 was on the question of prohibition. The prohibitionists are unanimous, and they desire the prohibition question submitted separately, but the friends of woman suffrage are divided on this question. I am in favor of striking out this section, and inserting Section 2, especially when the people favoring this question send in their letters and petitions asking that it be left out.

Mr. Dow: I move to refer this matter to the Committee on Elections.

A vote was taken and the Chair announced that the Ayes had it, and the main question was ordered.

By the President: The question now is upon the amendment offered by the gentleman from Brown, that the question be referred to the Committee on Elections.

The motion is lost.

Mr. Stone: Would it be in order to refer the reading of petitions sent to the Secretary's desk yesterday, on this subject?

By the President: No, sir.

Mr. McCallum: I did not hear that motion.

By the President: That the whole subject be referred to the Committee on Elections and Suffrage.

Mr. McCallum: That motion is lost?

By the President: That motion is lost.

Mr. Stone: Mr. President, I would like to know if that motion is to insert and strike out; if it is, I would move a division.

Mr. Campbell: The motion is to strike out the question of Woman Suffrage, and insert Section 2.

A vote was taken, and the Chair stated he was unable to decide, division was called for.

Mr. Campbell: I wish to state to the gentleman, that if they insist on division, I will withdraw my motion.

This suggestion has been made by friends of the woman suffrage question, and therefore, I hope the gentleman will not insist upon division,

By the President: I understand the proposition being called for on the general question. I am willing to let the gentleman state each proposition.

Delegate: Now, have the Schedule Committee made any arrangement so that the amendment be submitted to the Constitution, at the first session of the Legislature, granting the right of suffrage.

Mr. Campbell: The motion is to strike out the amendment submitting the question to a separate vote.

By the President: The Ayes have it.

Mr. Conniff: I would like to hear the resolution offered by Mr. Brookings; I think adopted by the Convention here, in order that I may move a reconsideration of that question.

Mr. Conniff: Mr. President, I move a reconsideration of the question.

The motion is seconded and carried.

By the President: The vote is reconsidered. The vote now recurs on the preceding resolution. The Secretary will now read the resolution.

Mr. Fowler: But I do assert as a fact that we have not got the will of the Convention as expressed by that vote. The proposition submitted, as I remember it, was that it should be separate, that each voter in this commonwealth might express himself on the main proposition without any reference to any other proposition. I insist as a citizen of the United States, residing under a free government, that this Convention has no right to dictate to me, or to any other man what proposition I shall vote upon, or what I shall vote against. Moreover, it is not right to say that I shall put the proposition either for or against, on my ballot. I maintain that I have a right to suit my own tastes, my own opinion and convictions on that thing. I am opposed to the proposition for the reason that it is too complex, voters will not take the time to understand it. Second: I don't believe that the Convention has any right to compel any citizen to vote upon a proposition. Third: I believe it will cause votes to be polled against the Constitution, and against those several propositions rather than for them. I say, Mr. President, let us go back to the people with clean hands. Let us submit the main proposition in such a manner that it will be perfectly fair, and every one can vote as they desire.

Mr. Campbell: I desire to say that I do not think there is a man in this Convention who is not as desirous, and as honestly desirous, of being perfectly fair as the gentleman from Pennington.

I don't think there is a gentleman upon this Committee who desires to be unjust, or to submit anything that is unfair. If it is in the power of himself to resolve himself into a committee of one, and proceed to work from now until evening to find a simpler plan, and succeeds, every man on that Committee will vote with him.

We struggled with this proposition for one hour to get the simplest plan, and that is the best we can do. If you think you can do better, we certainly will not object. If you print a lot of tickets for and against the Constitution, when a voter comes to vote, if he wants to vote for one and against the other, you will compel him to strike out and write in; and a delegate of this Convention, who is a German, who tells me that there is a large majority of German voters in his district, who cannot write, and if they are compelled to do so they must get another to write for them, and they would be ignorant as to whether it was written in accordance with their wishes or not. We have done the best we could, and if you can, get a better one.

Mr. Proudfoot: I would like to ask the gentleman who has just taken his seat if this is in accordance with the Missouri plan?

Mr. Campbell: It is.

Mr. Proudfoot: If a man is sufficiently intelligent, or can read English enough to scratch it out, he can certainly write yes, or no.

Mr. Corson: The proposition to vote against a proposition, I have no objection to; but it seems to me that if an elector votes at that election and does not desire to express any preference one way or the other, that he should have that privilege. I am in favor of the motion made by the gentleman from Chamberlain—to strike out the word he proposes in this section so that if anybody desired to vote for or against prohibition, it shall not be counted either way. If you desire to vote upon this Constitution you can do so without expressing yourself upon these things. If you desire to vote upon one thing and not upon another, you can do so by the use of a pencil. That is a fair way to submit it to the elector. If they don't erase from one or the other form, then they don't vote at all on that question. It seems to me that this is a fair way and one that would be satisfactory; it is as fair for one man, as another.

Mr. Williams: I call your attention to another change that will be necessary. Suppose I issue a ballot, upon the head of which appears only the word against such an article, not having the words, —for said article—at all upon it. Now, a man takes that ballot and he thinks he is voting against prohibition, I say you cannot count that ballot for prohibition because the words are not erased, it gives an unfair advantage, which can of course be used by the other side to the same effect. I would suggest that the word "for", in the 17th line, be stricken out, and "against" inserted.

Mr. McCallum, of Beadle: Mr. President, let me understand the Judge's motion; does it not contemplate the arrangement of the Journal from day to day; that is not the Journal, at all, (indicating book); his plan contains everything that has been done; is this what is to be printed?

Mr. Moody: The resolution does not provide for any printing at all; it provides for the Secretary to copy into that book everything of the proceedings; it is just ten days' per diem being allowed.

Mr. Coniff, of McCook: I want to vote for the first part of it and against the last; I ask that it be divided.

Secretary reads the resolution.

The resolution was adopted.

Mr. Ward: I move the reports of the Committee on Minority Representation, Prohibition and Franchise and Right of Suffrage be taken out of the hands of the Schedule Committee and given to the Committee on Engrossment and Enrollment.

Mr. Dow: Right here I would like to call the attention of the Convention to the fact, while it can be recollected accurately; we have already enacted two sections, each meaning exactly the same thing.

Mr. Ward, of Yankton: The Committee on Arrangement and Phraseology have already condensed four sections into one, in more cases than one.

By the President: The question before the Convention is taking these three reports out of the hands of the Schedule Committee and referring them to the Committee on Enrollment and Engrossment.

Which motion prevailed.

By the President: The question before the Convention is, will the Convention consider now the report of the Committee on Schedule and Ordinance; if so the Secretary will read the first Section.

Mr. Corson: I move it be made the special order for two o'clock.

Motion lost.

Secretary reads the first, second, third and fourth sections of the report or the Committee on Schedule and Ordinance, which were passed without amendment by the Convention.

Section five read.

Mr. Moody: I move to amend that section by striking out the word "by" in line ten, and inserting the word "under".

Which motion prevailed.

Section six read and passed without amendment.

Section seven read by the Secretary.

Mr. Fowler: I move to strike out second Monday in Decembes, 1885, and insert instead thereof, the second Monday in January, 1886.

Which motion was lost.

Section eight read.

Mr. Owens: I simply call attention to line thirty-one; United States Senators are to be elected by a majority of all votes cast; I move that such election be by majority of all votes cast by the members of the two houses.

By the President: Congress of the United States has provided the exact way these are to be elected; they vote in each house and if they agree they meet in joint convention the next day and declare the vote; if they do not agree, the Senators and Members vote together as a joint Convention and the majority determines.

Mr. Campbell: Probably it would meet all objections to strike out from line 30 down to the end of the section, and insert "And said election shall be governed by the provisions of the laws of Congress now in force, with regard to such elections."

By the President: I apprehend that it would be perfectly competent for this Convention to prescribe the way, and that Congress in ratifying it would make an exceptional case, but the only objection would be that if the Senate should elect two men and the House two other men, whether this could meet it. It ought to be provided that they should be elected by the Senate and the House separately, first. If they do not agree, then in joint session, but whether the other rules in reference to the third Tuesday after the meeting of the Legislature ought to obtain or not I don't know.

Mr. Campbell: I think we had better leave it as it is. I move the adoption of the section as it is.

Mr. Owen: I move that that section be postponed and made the special order for two o'clock this afternoon.

By the President: The question is upon the postponement, to be made the special order for two o'clock this afternoon. (Lost).

By the President: The question is now upon the adoption of Section 8. (Adopted.)

Mr. Allen: I simply wanted to call attention to line 34, to change it after the word "House". The words "of representatives" should be inserted.

Mr. Campbell: That is a matter of phraseology.

Mr. Stone: I think it is due from the Committee to members who are obliged to vote on their report, if they are called upon, and therefore I would like to ask the Chairman of this Committee why the second Monday of December was selected instead of a latter date, after the holidays? It appears to me to be objectionable to have it at that time. It is not probable that the session will be finished before the holidays. With such a large body of people assembled it will be found to be a serious objection if they are obliged to be away from home during that time, and if they do go home it will be at a great expense because they don't have any passes now-adays!

Mr. Campbell: The Committee considered that and the controlling opinion and controlling consideration of many was this: After the last Constitutional Convention, when Judge Moody went with our Committee to Washington they were found fault with seriously by Senator Harrison and others because they had not been there at the very opening of Congress with their Constitution, and they said to them, as Judge Moody has told me, "If you had been here and the bill had been put in when we would have put it in we would have passed it by this time, and sent it to the House." We thought that was a most serious objection and that we could pass over Christmas and such minor things as that for the purpose of getting it before Congress.

Mr. Moody: Mr. President, I think this section should be amended in this way (Section 8), by striking out in lines 26, 27 and 28, these words: "Both Houses of the Legislature shall meet in joint session" etc., which would leave it like this: "The Legislature shall then and there proceed to elect two Senators of the United States for the State of Dakota" etc.

Mr. Campbell: There is no objection to that.

Section 9: The Secretary was preceeding with the reading of Section 9, when he was interrupted as follows:

Mr. Kanouse: I move that we consider so much of this as has been read. This section is so lengthy that I think we can hardly take in the whole section.

Mr. Campbell: I would ask the gentleman to let the whole section be read through first and then consider it separately if you wish.

Mr. Kanouse: All right, I withdraw my motion.

(The Secretary read the balance of Section 9.)

Mr. Campbell: I will move to strike out on page 3 the lines 7 to 10, inclusive, all in regard to woman suffrage, if there is no objection.

Mr. Moody: I second the motion.

Mr. Campbell: And also all on page 4 from line 32 to line 3 on page 5, the same subject. (Carried.)

Mr. Kanouse: Those blanks "for the Constitution————" "against the Constitution————".

Mr. Campbell: These blanks are printed there by mistake and should be left out, and I hope the Phraseology Committee will leave them out. On page 4, line 4, the words, "so not" should be transposed. On page 4, line 27 the word "free" should be "full".

By the President: These being clerical amendments only, will be considered amended.

Mr. Kellam: There is a provision in this article that I desire to call the attention of the Convention to. Now, whether a Prohibitionist or an Anit-Prohibitionist, a fair thing is a fair thing. Now, is it fair to say that upon this one proposition upon which neither the words "for prohibition" or "against prohibition" are erased, if a man inadvertantly votes without erasing either one of those, "for prohibition" or "against prohibition" that it shall be counted "for prohibition"? If it is fair to count it "for" prohibition, it is just as fair to count it "against" prohibition. I voted for the submission of this question so that it would be a fair and candid expression; so that each man's vote should be an expression of his vote as to whether he wanted prohibition or did not want prohibition.

I do not know that it will make the provision euphonious, but I desire to move to strike out, commencing with the word "or" on line 14 and ending with the word "erased" on line 15, so that the provision will read: "And they shall count all ballots so voted upon which the words "against any article separately submitted" are erased with pencil or ink, as votes for such articles." I do it simply because I think it is fair.

Mr. McCallum: I would simply say in justification of the Committee that we thought we would have the views of the Convention upon this question.

A Member: The Committee already discussed this question, and we thought we would submit it to the Convention. We thought that position would be a just one, that where a man deposited his ballot without striking out for or against the Constitution, that the fair presumption was that he desired to vote for the Constitution, and the presumption should be so considered. If he will vote against it, he will be apt to scratch out the word "for". Now, you must count that vote one way or the other. We thought it just to count them in favor, and thought it fair that those ballots be so counted.

Mr. Kanouse: I am very sorry that this question has excited scussion; I supposed it was completely and harmoniously agreed upon. The question as to the fairness of the arrangement in that Constitution does not seem to be counted by anybody. This ballot is so plain that a wayfaring man, though a fool he be need not err. And it seems to me beyond peradventure that in voting upon any question he will be enabled by that method provided by the Committee to discover whether he will strike out "against", and vote for, or whether he will strike out "for", and vote against the Constitution, without scratching and include the Constitution, it shall be counted on these separate-submissions as an affirmative vote. It is the simplest possible way to submit it. And it is the way it should be. Having thoroughly dsicussed this matter, and having so thoroughly and harmoniously agree upon it, I hope and trust that the Convention will adopt the method of ballot as reported by the Committee on Schedule. I claim that this Convention has no right to fix my ballot one way or the other; I claim that I have a right to vote for or against these propositions, or not to vote for them at all. I say they have no right to fix my vote affirmatively or otherwise unless the Constitution is already voted down. Now, if this thing is not put in squarely it will be voted down. I warn you in time, gentlemen.

Mr. McCallum: To count a ballot like that, I never heard of such a thing. I doubt not, Mr. President, but that the people voting this Constitution, will do it intelligently. Let it be as fixed that if a voter neglects to scratch out the words "for" or "against", it will be counted blind.

Mr. Kanouse: If the gentleman will allow that provision to be stricken out, I have no objection.

Mr. McCallum: You would have to strike it out, because it is trying to count for or against a main proposition. I am in favor of saying in lines 3 and 4 and following that if it is both "for" and "against" the Constitution, it shall be counted blind; if "for the Constitution is erased", it shall be counted against the Constitution. If "against the Constitution" is erased, it shall be counted for. And let there be one count of these articles.

By the President: You so move?

Mr. McCallum: I understand the motion of Major Kellam.

Mr. Kellam: If the motion is upon my motion, I very willingly accept it.

By the President: Send up the amendment in writing.

Mr. McCallum: I wish to make this suggestion; put all things on a fair basis, if we are going to take this on a vote, and not count them positively. If the Constitution is to be ratified by a majority of all the votes cast in this Territory, then let every one of these separate subjects be ratified by the same majority, and not on the vote which is not on that question.

Mr. Proudfoot: I do not think that a man should be forced to vote on any point that he does not desire to. Therefore, I am very much opposed to this present status of the case. I do not want a man who does not want to vote on this subject to be compelled to vote for it. I want him to vote for the Constitution, and not be compelled to express himself on any other point but the Constitution.

Mr. Fowler: I am decidedly in favor of the opinion that the propositon proposed by this Schedule Committee is decidedly in opposition to the vote of this Convention. That it does not in any manner, nor in any consideration, nor in any part express the will of the majority of this Convention. Now, whether the

Convention or the Committee have acted in good faith in this proposition, I do not desire to discuss, that it is not carrying out the will of the Convention expressed by that vote.

Brookings Resolution.

By the President: Those who are in favor of the adoption of this resolution say aye, contrary no.

The noes appear to have it.

Division is called for. The vote standing 19 for and 27 against.

Mr. Moody: I think that we ought to pay our honest debts and I move that we pay to the persons officiating as chaplain for this Convention, the sum of $2.50 a day, not including members.

The resolution is adopted.

Mr. Ward, of Yankton: I would like to refer to one matter that affects our business; there are nine reports that have been acted upon by the house that have not yet reached the Committee on Enrollment, and not reaching them, have not reached the Committee on Phraseology, and until they get to us we cannot do anything in the matter of arrangement. I would like to suggest that if there are not clerks enough to get the matter attended to that others be appointed. Is it not better to have five clerks at thirty dollars a day, rather than keep us here at an expense of three-hundred dollars a day. Some of the reports were passed upon several days ago. I move sir, that a sufficient number of clerks be appointed to aid the Committee on Enrollment and Engrossment, for the purpose of preparing the reports for the Committee on Arrangement and Phraseology, and the compensation left to the discretion of the President.

The motion prevailed.

By the President: I think the compensation had better be fixed by the Convention.

Mr. Ward: I move that it be the same as the other clerks.

Mr. Moody: There is one subject that we ought not to forget. During the Convention there was a Journal kept of the proceedings from day to day, which shall be filed with the President, to be by him retained, and subsequently filed by the Clerk with other records of the State. Of course the preceedings kept from day to day, must be transcribed into a journal, which has been commenced, and I understand has been proceeded with as rapidly as possible, but it will require a number of days after the Convention has adjourned before it can be completed, and I move that the Secretary receive per diem therefor not to exceed ten days. Of course, the journal proceedings as well as the debates from day to day, will necessarily have to be transcribed into a permanent journal, in writing, and that is the one that is preserved. The extra copies of this proceedings are for distribution, and of course corrections will have to be made in them, so that they will be absolutely correct and in accordance with the Journal as corrected.

Mr. Neill: Then those copies will not do to file away?

Mr. Moody: Not without correction.

Mr. Owen: From the fact that our record has been so well kept from day to day, would it not be well to authorize the editor of our daily paper to have them bound in volumes? There is this advantage—printed matter cannot be changed.

Mr. Moody: If it is thought advisable to instruct the Secretary and the Assistant Secretary to take these printed records and correct them, it probably would take less time than otherwise, but it would not be quite so artistic as to put the proceedings into a book in writing, and that is the way it is usually done. The one copy that is with the President should be an absolutely correct copy, which should be engrossed into a book, just as all journals are.

A Member: Are these five-hundred copies to be printed after the Convention adjourns? Ans. Yes.

Mr. Moody: And corrected. And I will add to that resolution an instruction that the Assistant Secretary read the proofs and see that those printed copies are correct.

The resolution as offered by Mr. Moody is read by the Secretary.

Mr. Moody: What I desire is that the Secretary shall transcribe into that Journal, as a permanent book, to be kept as such journals always are, the entire proceedings. Of course that journal has been corrected from day to day and noted in the proceedings of the succeeding day, and I understand that the printed copies will show these corrections as they have been made from day to day. All that I care about is that the Secretary will supervise the matter and see that these copies are properly put together.

Mr. Kellam: It occurs to me at the first blush, if the suggestion of Mr. Williams is correct, it will lead us into the same difficulty that we are trying to get out of.

Now we have in each one of these cases; for, and against; now suppose the suggestion of Mr. Williams is adopted, and wherever such article is not erased, it counts for such article; on the other hand, you have got in conformance with that to say where against such article is not erased it must vote against such article; suppose neither one of them is erased, then you vote against neither of them.

It seems to me that there is another difficulty; I am a Prohibitionist; I am going to vote for prohibition; it is not a question whether a man is a confessed Prohibitionist; it is simply whether it is a fair way of submitting it.

As I am on this Committee it is my report just as much as anybody elses; I simply rose to make myself better understood!

I wish to say I do not think these lines ought to be located at the end of the amendment proposed; at the end of the proposed line eighteen.

By the President: The Secretary will read the amendment to the article, as it stands amended, commencing at line one at the top of the page.

Which is accordingly done.

Mr. Kellam: I understand under the amendment 9, 10 and 11 are stricken out entirely?

By the President: You have the record just exactly as it stands; he has read to you that portion of the section amended; the Secretary will read it again.

Mr. Haines: I move that in line 19 there be inserted between the words "shall" and "count", the word "not".

By the President: Those are eliminated.

Mr. Lowthian: I suggest they strike out those words "pencil and ink"; erasure is sufficient.

Mr. Coniff: It would seem to me, if you will excuse just one word, it would seem while we are providing here that these two propositions printed upon the ballot shall not count for the Constitution, we are inadvertably providing that they shall count against the Constitution because this portion commencing with line nineteen provides it must be by the majority of the votes cast at the election; we are providing that these votes are to be against the Constitution when we strike these provisions out; I am not in favor of it.

Mr. Jessup: It seems to me these words can do no possible harm in there; some voter might consider they would have to be entirely rubbed out.

Mr. Lowthian: Suppose that I should want to erase them with a knife, then it would not be erasing at all?

Mr. Campbell: When you say erase you leave it to the judgment of the judges and clerks as to what will be an erasure; I apprehend that the reason the words pencil or ink were put in to the schedule from which we copied that, that there must be some legal reason and if a man wanted them erased he should erase them with a pencil or ink so if you have a hostile judge of election they cannot take anything for an erasure; this is not a new thing, it has been provided for; and there was a reason for it; I can see what would be a reason for it; you should indicate the kind of an erasure that shall be a legal erasure, and that all ballots here do not have them printed on and you provide that for a good reason—that there may be a uniform ballot upon which this vote shall be cast. I do not presume that after you have indicated that they shall be printed,—these double ballots—that a man will necessarily violate the ordinance and unnecessarily put himself out of the way to vote a ticket that is not provided for.

Mr. McCallum: With reference to the erasure, suppose that the erasure is by pasting a piece of white paper over one of these phrases; that is a complete erasure; it is not scratching; it is neither pencil or ink; now, I trust no judge of election would dodge this law, if ballots were so erased. I think that with "pencil or ink" is only directory. A legal erasure could be made by pasting a piece of white paper over one of these prhases. Now, if a judge wanted to be technical he could say "that is not a legal erasure under this law" and refuse to count such votes, but if he wanted to be just he would say "Of course that is an erasure; that is the intent, fairly and plainly". I think it would cover all, plainly and better, to strike out "pencil and ink" and leave it simply "erase."

Mr. Wright, of Lake: It seems to me that there would be chance for fraud in this covering up of an article with a piece of aper, and a voter who is not thoroughly posted upon the quesons at issue might fail to see that issue and never know that there was such a question there scratched out by the piece of paper. It seems to me that that would open the door for persons designing to commit fraud. It seems to me that pencil and ink can be at hand more handily than mucilage and a piece of paper.

In reference to the objection of the gentleman from Pennington as to any form of ballot, I think he will find if he examines the records that there is some restriction placed upon the form of ballot; that the law states, in some states at least, that the ballot must be of such form so as to be known to be the usual form of ballot.

Mr. Huntley: If we scratch those out it would give the most convenient form. A man can very readily make a mark with his nail across whichever proposition he wished to strike out, distribute it out to the voters, and it would not be apparant to the voter's mind whether that was erased or not, and the judge would decide whether that was erased or not. If it is to be erased with pencil or ink there is no question about when it is erased; anybody can see and determine it. I think the words had better remain as the Committee have arranged it.

Mr. McCallum: Mr. President;—

(Cries of "Question", "Question".

Mr. McCallum: One moment, now; don't let us hurry the matter; I move this as an amendment; to leave the words as they are, but change them this way: "With pencil, ink, or otherwise". That is a complete erasure; that means all.

Mr. Lowthian: I think if we are going into all the technicalities, we could raise a million questions here on the technicalities in this Constitution. If we have got to sit down by the ballot box and see what an erasure is, we had better not have an election.

Mr. McCallum's amendment was lost.

Mr. Campbell: To make this section consistent with the vote taken as to how these ballots shall be counted, I move to amend page 4, line 20, to meet the objection of the gentleman, by inserting after the word "election", these words: "For and against the Constitution". (Seconded; carried.)

Mr. Goddard, of McCook: I want to ask this question: Does the adoption of this form preclude the voting of any other ballots? Suppose private parties, as they often do, have some ballots prepared, omitting these articles altogether, are the judges of election to throw those out, or what is to be done? If there is not some provision in this article against it, will they not be counted as against the Constitution, or against these articles? Should not some amendment be inserted here to this end, if they are to be rejected?

By the President: A very proper question to ask the Chairman of the Committee, during the recess.

Mr. Reed: I move we do now adjourn. (Seconded; carried.)

Convention adjourned until two o'clock P. M.

Mr. Williams: I wish to offer an amendment to Section 9. (The same was reduced to writing and sent to the Secretary.)

Mr. Corson: It is the theory of many members that the salary of District Judges have been placed too low, in view of the fact that the districts are so large, and will entail so much travel and expense. And it is the theory that the salaries should be fixed at $3,500 instead of $2,000. I move you, sir, that the Committee on Phraselogy be instructed to insert that the salaries of district judges be $3,500 instead of $2,000. I move this for the benefit of the people, because with the salary at $2,000 it will be impossible to get the requisite legal talent to fill the place.

The motion was seconded, and declared carried, but division was called for, and the vote stood 21 for and 29 against, so the motion was lost.

Mr. Williams: I would move that instead of $2,000 the salaries of district judges be $2,500.

The motion is seconded and lost.

Mr. Williams: I offer the following amendments to Section 9: (The same were sent to the Secretary and filed.)

Mr. McCallum: I rise to second the amendment, and trust that it will be adopted. I think this is the easiest and simplest way.

Mr. Haines: I think I do not understand the full intent of this.

Mr. McCallum: If you look at it, you will find it is all right.

Mr. Owen: I move that that be refered back to the Committee for re-drafting.

Mr. McCallum: I think this matter is now perfectly plain to everybody, and what is the necessity of complicating the matter? If a man votes a ballot "for the Constitution" and "against the Constitution" in the same ballot, it don't count. Now, then they provide afterwards that a majority of the votes that are cast for the Constitution will decide the matter. If you count a ballot, a vote, and the words "against the Constitution" are not erased, and the words "for the Constituiton" are erased, it will be a vote against the Constitution. Because by this it is provided that no ballot shall be counted for the Constitution unless the words "against the Constitution" are erased.

Mr. Miller, of Hughes: Mr. President, I move to strike out all on page 3.

By the President: The question before the Convention is one of reference.

Mr. Moody: Mr. President, if the gentleman will give way, it strikes me that we can settle this matter a great deal quicker by referring back the entire Section 9, and have it redrafted.

Mr. McCallum: I accept the amendment, that the whole section go back to the Committee.

Mr. Campbell: Shall I go on?

By the President: The Secretary is requested to read Section 10 for the information of the Convention.

Mr. McCallum: In line 20 and 21, where it says the place of meeting of the first legislature for a temporary seat of government, I move to strike out for the place of meeting of the first legislature.

Mr. Campbell: I hope that will not prevail, because you have to have a place of meeting for the legislature.

Mr. McCallum: Doesn't the temporary seat of government necessarily imply the place of meeting of the legislature.

Mr. Campbell: Not necessarily.

Mr. McCallum: Then why don't it mean both?

Mr. Campbell: It is explicitly implied.

Mr. McCallum; I don't think you have been explicit. I think the vote should be for a temporary seat of government.

By the President: Does the proposed amendment meet with a second?

The nays have it, amendment is lost.

Mr. Campbell: I propose that another meeting of this Convention be otherwise provided for, so that in case of necessity an additional meeting of this Convention can be called.

By a Member: It seems to me that this is a better plan than the other one, if we can adopt this.

Mr. Campbell: I understand that the Convention yesterday passed a resolution to fix a day certain for meeting, and this was drawn before that was passed. I withdraw the motion.

Mr. McCallum: In line 24, I move to strike out three, and insert the word four.

The motion is lost.

Mr. Owen: I move to strike out, in line 25, any member may, in writing, delegate his power to act on the Committee to another member thereof.

The motion is lost.

Mr. Kellam: I desire to return to Section 13, and see that we all understand it, if I understand it, I am not ready to vote for it—to set in motion the State government by it established, and to take care that the State government so established shall receive no detriment, and that the will of the people be carried into effect. I move to strike out the words that I have read.

Mr. Moody: You might as well strike out the balance of the section as it is but a reiteration of the other.

Mr. Owen: After the word effect, in line 35, I move to insert —"subject to the law of the United States." I want to know right here whether we are going to revolutionize the government. I propose to go for statehood subject to the laws of the United States.

Mr. Campbell: I do not know of anyone who desires to revolutionize the government. I second the motion made by Mr. Kellam.

Mr. Moody: The motion is to strike out all after the word Constitution, in the 32nd line, down to the 40th and 41st line—they shall make arrangements for rooms for the legislature, etc.

The motion is adopted.

By the President: The next section has been read and no amendments proposed to that.

Section 15 read by the Secretary.

Mr. Campbell: I move to amend line twenty-two; strike out annual and substitute general.

Which motion prevailed.

Sections sixteen and seventeen read and passed without amendment.

Section eighteen being under discussion,—

Mr. Campbell, of Yankton, moved to strike out lines twelve, thirteen and fourteen.

Which motion prevailed.

Mr. Campbell: I move the Committee on Phraseology be instructed to insert the proper number of the articles; we do not know which they will be because they are not placed in the Constitution.

Mr. Moody: In this section we are considering the object as I understand and included in the lines from eighteen to twenty-three, to have these returns made to some board, that will act in the premises.

But of course it will be impossible to make returns fully so far as receiving returns; we will have but one set of ballots of course; they might have two sets of poll lists, election books. I move this amendment.

(On file with the Secretary.)

Section nineteen read.

Mr. Campbell: I move to strike out lines 34, 35 and 36.

Which motion prevailed.

Mr. Wright: I call the attention of the Chairman of the Committee to this "shall separately make and certify under oath". This is line 28; shall either or both make and certify under oath; I offer this as an amendment.

Which amendment prevailed.

Mr. Moody: The word separately is stricken out, and the words either or both inserted in its place?

The President: Yes, sir.

Section twenty is placed before the Convention for consideration.

Mr. Campbell: I move to add in the 5th line, page 10, the words "and judicial" after the word "state"; and in line 10 also add the words "and judicial", and also move to strike out——— (Inaudible.)

Mr. Oaks, of Minnehaha: In line 28 I move to insert the word "total" before the word "number".

Mr. Owen: The word "total" appears in line 19.

(Mr. Oakes' amendment was lost.)

Mr. Frank: I make a motion to strike out all this portion of Section 20, from line 30 down to the close of the section. (Lost.)

Mr. Moody: I think there may be some doubts as to the construction of that portion of Section 20, found in line 15; "and shall ascertain by a count of the same". I think the better term would be "and shall thereby ascertain". Strike out the words "by a count of the same". Say "and thereby ascertain—".

Mr. Campbell: I have no objection. (Sec. 20 adopted.)

Section 21.

Mr. Frank: I move to strike out Section 21. (Lost.)

Section 22 read by the Secretary.

Section 23 read by the Secretary.

Mr. Campbell: I move that the Committee on Phraseology insert in the blanks the number named in the Section.

By the President: They will do that without any instructions.

Sections 24, 25, 26, 27 and 28 were read by the Secretary.

Mr. Campbell: I move to strike out of Section 28 the word "Territory" and insert the word "State". (Carried.)

Mr. Moody: I move that Sec. 28, as amended, be transferred and constitute an article in the Constitution, and be so arranged by the Committee on Schedule. (Carried.)

Sections 30 and 31 read by the Secretary.

Mr. Moody: I move that Section 31 be referred back with the like section, to the Committee on Schedule.

Mr. Frank: I move that all that portion of Section 31 from line 21 be stricken out.

Judge Moody's motion prevailed.

Mr. Moody: I move that the report, as amended, except such as has been recommitted, be adopted and referred to the Committee on Engrossment and Enrollment. (Seconded.)

Mr. Owen called to the chair.

Mr. Edgerton: I would like to give my reasons why I am constrained to vote "no". I have abstained carefully from doing anything that shall obstruct the business of the Convention in reference to the adoption of this article of the schedule. But it is impossible for me to agree with the majority of the Convention, and I very briefly shall give my reasons.

In the first place I cannot agree with the Convention as to the propriety of adopting Section 7, where it provides that on the first day of the assemblage of the legislature the Governor and other State officer shall take the oath of office in the presence of the legislature. I do not think it wise for the State officers, any of them, to take their oath of office and become officers until after Congress has passed upon our right of admission.

I do not want that there shall be two Governors, two Secretaries of State, two sets of Judges, and therefore, I do not think it wise for that and many other reasons to vote for the report of the Committee on Schedule. This report proposes to invest this State Executive Committee, as they term it, with extraordinary powers, such as the power of substitution, etc. I cannot see where the Convention derives its authority for this proceeding.

Again in Section 24, I cannot agree with the expression, and therefore, I am compelled to vote "no" on the adoption of the report of the Committee on Schedule.

Mr. Campbell: I desire in a few brief words to state the reasons of the Committee for inserting these provisions, to which the gentleman from Yankton objects. In the first place—

Mr. Edgerton: I will state this Mr. President, if we are going into discussion, I want to give my reasons. If we are going into a discussion, I will have the right to discuss these propositions.

Mr. Campbell: Very well.

Mr. Proudfoot: I move that this matter be reconsidered and refer the matter back to the Schedule Committee.

The motion is carried.

Mr. Moody: Now, then, Mr. President, while the Schedule Committee is preparing these other sections, I think we may as well dispose of this other proposition, that was up this morning, the report of the Special Committee of 15. I desire to amend that report.

Mr. Campbell: If the members of the Schedule Committee do not desire particularly to remain for this discussion, we can go down stairs, and proceed to this business.

Mr. Moody: I move to amend the report by inserting those words: (The reported amendment was filed with the Secretary).

The amendment is seconded.

Mr. Moody: The question, Mr. Chairman, is upon the amendment I moved. The first question is upon the adoption of the amendment.

The amendment is adopted.

Mr. Kanouse: Mr. President, I move to reconsider the vote by which the Convention adopted the report of the Committee on Ordinance.

Mr. ——————: I move to lay that motion on the table.

The motion to lay on the table was adopted.

Mr. Haines: I offer the following report: (The same was sent to the Secretary.)

Mr. Campbell: This has come upon us very suddenly. I move that it be made the special order for tomorrow. I do not know whether there is any particular necessity for this or not.

By the President: It cannot be referred until tomorrow without unanimous consent.

Mr. Haines: I hope, Mr. President, that the House will consent.

Mr. Stone: I would prefer to have it come up a little sooner which is why I object.

Mr. Campbell; We have a good deal of work; let us have time to consider it.

Mr. Stone: Can't we consider it this evening?

Mr. Campbell: It is nearly time to adjourn; we will have hardly time to get our suppers and get back; let us take time.

Mr. Stone: Mr. President, I will withdraw my objection, if the gentleman will consent to having it immediately after assembling this evening.

Mr. Brookings: Mr. President, I am in favor of that resolution.

By the President: Mr. Stone withdraws his objection, and Judge Campbell's motion is in order.

Mr. Stone: I do not withdraw my objection, unless the gentleman consents to take up this matter soon.

Mr. Campbell: I raise a point of order, and my point of order is this: That before the President of the Convention puts a motion, and before it is put, it is in order for any member to move a proper amendment or reference, I raise the point of order that I am in order.

Mr. Campbell: I move that this resolution be postponed until 7 o'clock this evening.

By the President: Mr. Stone, do you withdraw your objection?

Mr. Stone: Yes, sir.

The motion is carried.

Mr. McCallum: I simply rise to inquire has any provision been made for having precincts established in the counties south of the 46th parallel that are not represented here?

By the President: I could not answer.

Mr. McCallum: I move we adjourn until half past 7.

By the President: That has already been decided.

Mr. Moody: I desire to offer the resolution that I spoke of. Resolved that a committee of fifteen, etc. The resolution is on file with the Secretary.

By the President: The ayes have it, the resolution is adopted.

Mr. Gehon: I desire to be excused for the balance of the afternoon.

By the President: I will say that I authorized the Chairman of the Committee on Phraseology, in my name, to employ others to expedite the work. I would ask about the employment of these clerks at night, The Chairman of the Committee tells me that in order to get through with the business it will be necessary to work nights; I would like to ask the opinion of the Convention as to employing them for extra work at night.

Mr. Moody: I move to employ these clerks by the hour.

Mr. McCallum: I amend the gentleman's motion by allowing these clerks, if they work until midnight, full day's pay.

Mr. Moody: Let them be employed by the hour.

By the President: Do you move that second amendment?

Mr. McCallum: I do.

Mr. Moody: I move that they be employed by the hour.

The ayes have it.

By the President: There are one or two other matters. The Committee on Miscelleaneous Subjects is the next report in order. The report of the Committee on Manufactures and Agriculture.

Mr. Brown: The Committee on Manufactures have concluded to make no report?

By the President: I ask whether the Committee on Miscellaneous Subjects have any report?

Mr. Alexander: We have none at present.

By the President: The Committee on Expenses. Mr. Fellows are you ready.

Mr. Fellows: We have no report ready yet. Will it be ready by night?

I think it is doubtful.

By the President: I think we shall be able to conclude the business.

Mr. Corson: I move that we take a recess of one hour.

Mr. Fellows: There is one matter that I would like to bring before the Convention with regard to the report of the Committee on expenses. It seems in the provision that the Convention made for the appointment of extra clerks there was no provision made for the amount per diem. I wish the Convention would act in this matter so we can make our report.

By the President: The Convention failed to provide a per diem for the transcribing clerk. There were two additional clerks authorized by the Convention.

By a Member: I move that it be the same as the enrolling clerk.

The motion carried.

The Convention takes a recess for one hour.

Committee on Miscellaneous Subjects submitted a report which is read by the Secretary.

Mr. Neill: I move its adoption.

Which motion prevailed; report referred to the Committee on Arrangement and Phraseology.

Mr. Owen: I have a motion I present.

Read by the Secretary. On file with the Secretary.

Mr. Owen: When the separate submission of the woman's suffrage section was disposed of, it was understood by the gentleman who made the motion when his attention was called to the provisions of Section two in that same article; I have examined it and find it in fact good for nothing; it is a mere permit to the legislature to extend the right of suffrage to the women by submitting the question to a vote of the people and then if the people vote to adopt it it becomes a law; simply a law and not a part of the Constitution; that is the legislature could pass a law and then it must wait two years until the next election, and then the next legislature may repeal it.

Now, that is not what any of us thought was the purport of Section two, so at the request of many I drafted that article so the first legislature may submit the question of female suffrage to the voters, then if the majortiy adopt it it shall be a part of the Constitution of the future State of Dakota.

Mr. Ryan: I move to lay the resolution upon the table.

Which motion was lost.

Mr. Moody: Is it not a fact that the gentlemen have already got into the Constitution the same thing?.

Cries of no.

The resolution of the gentleman from Kingsbury was adopted by a vote of 27 for and 25 against.

Mr. Campbell: Mr. President, the Committee on Schedule report the following, substitute for Section nine.

I hold in my hand without sending it up, the substitute the Committee recommend, commencing on page three, Section nine, first line, "Yes. No" and strike out all of line two. In line 3 and 4 strike out all except the words "for" and "prohibition" and add the words "Yes." "No." Strike out lines 5 and 6 entirely so that the whole thing will read as follows: The ballot shall be in the following form "for the Constitution yes, no." "For prohibition, yes, No." Lines 11 and 14 the same so it will read, for minority representation, "Yes." "No."

Strike out lines 11 to 14 except "for minority representation" adding the words "Yes." "No." Strike out 13 and 14.

They further recommend to strike out lines 17 to 34 inclusive and substitute for these lines, the words:—

(On file with the Secretary.)

Mr. Lowthian: Why not strike out all of lines 20, 21, 22, 23, on the last page?

Mr. Campbell: It is stricken.

Mr. Moody: I think the Chairman of the Committee has not reported upon this subject, though I understand him to have intended to; that is a liberal construction under this section relating to the form of the ballot.

Failure to use the form of the ballot herein prescribed shall not vitiate the vote if the intent of the voter is clearly ascertainable therefrom.

Mr. Campbell: I accept the amendment.

The report as amended is adopted.

A special order is given for the consideration of the resolution offered by Mr. Haines.

Mr. Campbell: I move that the Convention resolve itself into a Committee of the Whole for the consideration of this resolution.

The motion is carried and Mr. Coffin is called to the chair. The Secretary reads the resolution.

Mr. Campbell: I desire to offer a substitute to the resolution just placed upon our tables. I will state that there is nothing in this Constitution that could be construed to authorize the legislature or the State government which may be elected, to exercise any power, or do anything contrary to the Constitution or the laws of the United States. I hope I may have a second to that amendment.

The motion is seconded.

Mr. Campbell: In what I shall say now, I shall simply state my position, without any argument. In the first place I will ask the gentleman who offers this resolution, and I will ask the delegates, what there is in the act that has called us together, to authorize you to put such limitations upon the people of Dakota, and upon their representatives, as you have embodied in this section. What is there in this that has given you the power to do this? I read from Section 6: Said Convention, after its organization, shall proceed to draft a Constitution for Dakota south of the 46th parallel, republican in form; that is one duty, that you have performed. It shall be the further duty of said Convention to provide for the election of the people in this State, at which election the Constitution shall be presented for ratification; that you have done, and well done. At said election said officers, members of courts, members of the legislature and all other officers provided for in the Constitution, shall be elected; that you have done. And the said Convention shall provide the necessary means for holding said legislature; that you have done. What are the purposes of the Constitution? To frame a state government for the people of Dakota. Now, I ask the gentleman from Turner to answer this question candidly: Where do you find in this charter the power to put this limitation upon the people of Dakota, or upon these officers. Where do you find the power to insinuate a charge, as you will, to hold that the people of Dakota are so disloyal, so rebellious and so full of revolution that it requires the wisdom and moderation of this body to keep them within bounds. Delegates of this Convention and the Chairman, I ask the gentleman who has presented this resolution to point to the Constitution from the beginning to the end and see if it has seen fit to manifest any such distrust of her own people. What danger is there of a single man on this floor committing treason or disloyalty? When the people of Dakota elect their representatives and their governor, will they not presume to have the same wisdom that we had when we elected them. It is possible that in Dakota, with her moderation, this wise man must now call upon the embodied wisdom and strength of a few, to prevent the people of Dakota from committing a disloyal act. You simply say to the people who come here, that it is to guard Dakota from transgressing the law. Gentlemen of Dakota, when the people elect their representatives and their state officers, the same people that are behind you will be behind them. And if these people elect their representatives they will be responsible men. You will have no responsibiltiy as to what the legislature or the State government will do; why do you take it upon yourself? It will be their duty, they will have the responsibility, why do you desire to assume it? I regret that anyone should see fit to insinuate that there is anything like disloyalty or revolutionary sentiments expressed here. Gentlemen, I know of no man on this floor who has such sentiments. If it is aimed at me, or those who may be supposed to share my convictions, I desire to say that I came from as loyal a state as anybody. There is no disposition, there is no desire on the part of men that I know of, on the soil of Dakota, to lift one hand or say one word against the government it represents; and will you say to the people and to Congress that our people are so disloyal that we want to check them. I say to the gentleman who is the author of this amendment that I am willing to put in the provision, in plain words, that neither the State officers nor the judicial officers nor the legislature are to be elected with those intentions, that they desire to do no act in violation to the Constitution of the United States. I will vote for that, if that is what you want, if that is what you are afraid of, if your object is to prevent the government from doing something that is contrary to the laws of the Constitution of the United States; I will vote for it, I will stand by it, and I will say that I do it to prevent them from doing a more foolish thing. But, Mr. Chairman, there are certain things which are not contrary to the laws of the United States which our state government may want to do. As to what may arise in the way of exgencies in the future that will come upon another body who are just as wise as you are—Now, let's see; suppose we read this: "Nothing in this Constitution or schedule contained shall be construed to authorize the legislature to exercise any powers except such as are necessary to its organization, to elect United States Senators, to provide and pass means and measures necessary, preliminary and incident to admission to the Union and to assemble and reassemble and adjourn from time to time; neither to authorize any officer of the executive or administrative department to exercise any power of his office, except such as may be preliminary and incidental to admission to the Union; nor to authorize any officer of the judiciary department to exercise any of the duties until the State of Dakota shall have been regularly admitted into the Union."

Suppose, Mr. Chairman, that the Congress of the United States,—and I see by the Democratic organ of this city tonight that it is supposed that President Cleveland will exercise his power and influence to have this Territory admitted—suppose they do admit it and admit it upon conditions—provided your legislature meets and does so and so. Now, are you going to say to that legislature from that time, when it is known that Congress has given its consent, when it is known that everything is ready for you to exercise your power, that from that time until the absolute admission of the State, (which may not be for a year afterward,) that your State government shall die and amount to nothing, when there is no objection on the part of anybody? That is the danger of descending to trivialities. My friend from Turner is a lawyer, and one of the keenest and brightest speakers I have met; he knows the force of words; he knows what you all know by this time that it is very dangerous to put in specifications particularizing "You shall not do this"; "you shall do this". It is more dangerous to put in a sweeping resolution like this and say you shall do nothing except so and so. It was the case in Michigan for a year and a half after Congress passed its act agreeing to the adimssion of the state, recognized its state government; did all but recognize its members upon the floor of Congress. There was a YEAR AND A

HALF! Congress was perfectly willing that that state government should go on, and it did go on. It was so in the case of one or two other states—Oregon. Are you desirous of putting in something which will prevent the action of the legislature? I have presented what seems to be my thoughts on this matter. I do not think the people of Dakota or the people of the Untied States will thank a single man on this floor for insinuating that they need to have guardians put over them to keep them from breaking the law. If there is any man on the floor who fears secession, or treason or revolution or gunpowder or anything wrong or dangerous in the principles of a single man on this floor or in Dakota, let him put in this resolution that that legislature shall do nothing contrary to the laws or the Constitution of the United States. But, Mr. President, if there is a single thing, if there is a single act, which that state government can do which is not opposed to the Constitution of the United States and is not opposed to the laws of the United States, which will contribute to bringing this issue before Congress forcibly, if there is a single act of that kind which it can do, I am in favor of doing it; and I want to know if there is a man on the floor who is not? Let me repeat: If there is a single act that that legislature can do, which is not opposed to the Constitution of the United States, and not opposed to its laws, I am in favor of their doing it. I am willing, if you think it is necessary, to pass this resolution that they shall do nothing against the Constitution or against the laws of the United States.

Mr. Haines: Mr. Chairman, I had but little thought of participating in a debate upon this question when we took up this schedule this afternoon and rapidly passed over it. There were some matters in the schedule which attracted my attention, and so seriously that I did sit down and write this resolution, for which I am solely responsible, although I am not inclined to think that all the delegates think it entirely useless.

Now, the substitute offered for this resolution is, in general terms, that nothing in this Constitution or schedule—(I give the idea, not the language)—contained shall be construed to be anything in violation of the Constitution or the laws of the United States. Now, there is no man upon this floor who acknowledges the debt which South Dakota owes to the gentleman who last spoke, more earnestly, more heartily than I do. There is no one who admires his zeal in the cause of urging Congress to give us statehood more that I; and, while I honor his motives and honor his labors, I cannot help but criticize the argument which he makes upon this floor in favor of this substitution. He first argues that it is somewhat of an imputation upon the patritoism of the citizens of Dakota and our constituents who have sent us here, that we undertake for ourselves to express any limitation upon the powers which we express and seek to exercise in this schedule. If that is true, isn't it just as much an imputation to say that nothing in this schedule contained shall be construed to be contrary to the Constitution and the laws of the United States? Let us not blind ourselves to the real issue here. Why object to particularities? If there is not enough included in the resolution which I felt it my duty to submit, let us amend it; but there is no use in disguising it, there is a difference, and has been a difference of sentiment among members of this Convention and among a good many people—among the people of the Territory to some extent perhaps, as to just what is meant by abiding by the Constitution and the laws of the United States in this matter of organizing a state government. We may as well speak plainly. One party believes conscientiously, founds an argument upon the authorities and upon the history of the Northwest Territory and this Territory ceded from France, to the effect that each Territory has a right to constitute a State government when it has a certain population, and to set it running as an independent sovereign, and that it is the duty of Congress to recognize it. Now, I acknowledge that there is an immense deal of force in that argument. No gentleman upon this floor or elsewhere shall exceed me in the thoroughness of conviction that the Congress of the United States is under a moral obligation, and a political obligation if you please, to allow a territory when it has the requisite population and other incidents, to become a state. Now, I speak guardedly when I say "A moral and a political obligation," for I concede that if it be true that the provisions of the Ordinance of 1787 were extended to this Territory, then it was a guaranty in advance to every man who settled here that when the requisites for statehood were achieved by the Territory it should become a state. Certain ones push that theory further than it is safe to go; they say, that being true, as a moral and political right, we have a certain right to erect a state government and to set the machinery of government into operation, although we be not admitted. I cannot go so far. I cannot go so far; but, while we claim to "abide by the Constitution and the laws" the gentlemen who hold that view claim, and conscientiously too "to abide by the Constitution and the laws." But when I say a moral and political right I mean exactly what those words express. A political right cannot be given to us by the Supreme Court of the United States. That Court does not adjust political rights; it never has done so; it never will. It can only recognize that portion of the government which the Congress of the United States do. It is a vain endeavor to establish any argument here upon any decision of the Supreme Court of the United States. If we set up any powers here, as a state power, before we are admitted, we shall simply run against the legislative and executive powers of the government. and that is exactly where we are. Shall that go out to the people of this Territory as the ambiguous expression of the rights which we claim, accompanied by the provision found in Section 24, that the session of the legislature may be longer than sixty days? If so, our enemies will claim that we are trying to veil what is their view of local or constitutional and legal right, whatever our friends may do. I do not propose to put a block in the hands of the enemies of South Dakota in any such manner as that.

The gentleman asks, "Is it possible that our State Legislature, which our people shall elect, shall be restricted to such things as are incidental and preliminary to admission to the Union before and until we are admitted?" Why, I can't say what that question means, except it is the suggestion that if Congress, when we knock at its doors, shall not give us our independent government, then we will come back and set up our government as Michigan did. That is what is intimated in the gentleman's argument; that is what is attempted to be reserved and covered up in the resolution which the gentleman attempts to substitute for the one first offered. We are under peculiar circumstances in this Territory. There is a government at Bismark constituted by the laws of the United States. We cannot displace that government by erecting one here. We cannot do as I understand was done in Michigan, where the territorial government assented, and yielded to the new government. But if we erect an independent government for South Dakota before we have received the authority and assent of Congress, shall we resist the raising of state taxes by the authorities at Bismark? Shall we elect judges to fill their office and displace territorial judges whose jurisdiction extends over this part of the Territory? What do we mean by exercising the powers of the legislature, and of judges and of the executive, before we are admitted to the Union, in excess of those acts and those duties which are preliminary to admission? Let us look at it again and see whether we are consistent. How would we, as citizens of South Dakota, regard the actions of the Mormons in Utah, supposing that they were the vast majority of the voting population of that Territory, if they, in order to break loose from what they regard as tyranny of the laws of the United States, under the decisions of the Supreme Court, and seek to organize for themselves a state government and to set it to running, and exercise all the functions of government and displace the functions of United States government in that Territory, before it was admitted into the Union? Is that advisable? Wouldn't it lead to war at once? Wouldn't the tocsin of war be sounded from the eastern to the western coast? We do not want to run into any such trouble as that; our people are too conservative for that. We want none, who are too zealous, to have any opportunity to lead our people into such trouble as that.

It is said that we are insinuating here to the people of Dakota that they would be inclined to take hold upon this organization which we are creating today and use it for purposes not recognized by the Constitution and the laws of the United States; that we are limiting them here; and that by this limitation we are expressing a distrust of their loyalty. Why, if that argument is good for anything, then the people of Dakota ought to kick us all—everyone—out of the Territory, because what have we been doing all this time but putting limitations upon the people? Every clause in the Constitution is a limit upon the powers of the future legislatures to be elected by the people. There is nothing in such an argument as that. The question here, as I understand it, is simply whether we shall put a construction upon our own acts, so that it may not be possible for too zealous and too ambitious men to take hold of this newly-organized government and attempt to run a state government, which will lead us into collision with the central government? I cannot see any good in it. If anybody else can I should be very glad to have them point it out. I do not want that general clause in there; I want something definite and certain, and I think if we limit our own construction or our own acts to the preliminary requisites to set this government running when the government at Washington shall assent to our Constitution, we do all that we ought to do.

Now, I will read this resolution clause by clause, and analyze it a very little: "Nothing in this Constitution or schedule contained shall be construed to authorize the legislature to exercise any powers except such as are necessary to its organization, to elect United States Senators, to provide and pass means and measures necessary, preliminary and incident to admission, and to assemble and reassemble and adjourn from time to time;" Now, the last clause read will cover what was suggested by the gentleman who last spoke—the necessity which he suggested, to assemble and reassemble and adjourn from time to time. Suppose now after we have had our election and organized our state government, we send the officers, according to the provisions of the schedule to Congress with the request to admit us, and they do admit us and pass certain acts, lay down certain conditions which our people shall accept, then the legislature shall be called together under this provision and pass upon the proposition as made by Congress. It would seem that everything necessary is here, but if not I hope some one will amend so there will be everything necessary for the purpose in hand. I do not want to be limited by the construction of general language which will be construed to mean anything else.

"Neither to authorize any officer of the executive or administrative—". The printing of my resolution is incorrect. The word "Departments" should follow the word "Administrative". "To exercise any powers of his office, except such as may be preliminary and incident to admission into the Union".

Now, I can't see that we want any executive for any other purpose until we are admitted.

"Nor to authorize any officer of the judiciary department to exercise any of the duties until the State of Dakota shall have been regularly admitted into the Union."

I can't conceive what a judge wants to do, what duties he wants to perform under the State Constitution until we are admitted. How can he possibly perform any without coming into collision with the judges that have been constituted over us by the central government?

These in outline are my reasons for adhering to the original resolution. The question sprung upon me is novel to my profession. The gentleman who last spoke has given a great deal of attention to this subject for years; but it seems to me that it is just that simple question—a question of political right,—our right to admission. Political rights are not matters to be submitted to the judiciary, but when a conflict comes between those who claim political rights and those who deny them to them, it is a matter to be settled by the arbitrament of war and nothing else; it is force and not reason; it is a matter for the armies and navies alone; and so we must see where we are going. It is our duty to be conservative and be careful that we take no position which our enemies may use to the detriment of the good name and loyalty of Dakota.

Mr. Campbell, of Yankton: Before the gentleman sits down, I would like to ask him a question, and I ask for an answer: I will ask him why no such provision was necessary in the case of Iowa, which did just what we have done; in the case of Oregon, which did just what we have done? Are the people of Dakota any more revolutionary or any less loyal than were the people of Iowa or the people of Oregon, who did not put any such provision in their schedule? I will again ask the gentleman this question—which I asked him in my opening speech—where does he find the authority for anything of this nature in the act of the Legislature authorizing this Constitutional Convention? And another question: Do you honestly believe that there is any danger that the people of Dakota will elect officers and a state government that will do revolutionary things? Do you believe there is danger that the people of the Territory of Dakota will revolutionize?

Mr. Haines: I will give my views. The gentleman asks, where, under this act of the Territorial Legislature do we obtain any warrant for this sort of thing. I, in the first place, while not technically familiar with that act, do not see that that act contemplates the doing of anything more than this resolution will permit of doing. If it does, then I should doubt very much its constitutionality, or legality, under the laws and the Constitution of the United States. If that act means to clothe this Convention with any more powers than the resolution which I introduce, then I think it is very doubtful whether we want to exercise or attempt to exercise our powers under those generalities, because I fear that the people and the authorities will conceive that there s conflict between the intent of that act and the Constitution and the laws of the United States.

Mr. Campbell: This Territorial act passed by this Legislature, is similar and of about the same purport as that passed by Iowa for its constitution. I understand the gentleman to say that he thinks this power is implied "in this act."

Mr. Haines: No; I said IF IT WERE.

Mr. Campbell: Well, I understand that you believe that the power you want to exercise—this inhibiting clause—is implied in that act?

Mr. Haines: Why, certainly.

Mr. Campbell: If that is true, the same power was implied in the territorial act of the legislature of Iowa that called its constitutional convention. Now, then, if the constitutional convention of Iowa did not find that power to inhibit their people in their act, where can the gentleman find that power in the similar act?

Mr. Haines: I do not believe the intent of that act was that a state government should be set in operation without the assent of Congress.

Mr. Campbell: Allow me to ask, does the gentleman state that I have ever, during this session as a delegate to this Convention, asked that this government be set up independently, without the assent of Congress?

Mr. Haines: If I can understand the resolution which the gentleman offered, it is to cover up that proposition.

Mr. Campbell: Then you mean to say that, while I have not done so directly, I have done so indirectly?

Mr. Haines: I say I think that is the tendency.

Mr. Campbell: I thank the gentleman.

Mr. Haines: Why are we so terribly afraid of saying exactly what we mean, in specific terms? Why those glittering generalities when it is admitted there is a difference in construction which has agitated South Dakota, by what is meant by "Under the Constitution and laws of the United States"?

Mr. Dollard, of BonHomme: Mr. Chairman, I cannot allow this opportunity to pass without making a confession of faith. I have arrived at the conclusion—and not very recently—from observing the action of members of this Convention that a large majority believe that the work of this Convention would be successful provided it was characterized by that degree of wisdom which should commend it to the favorable consideration of the United States government. I want to say now that I have never believed that such would be the result. I came here with the firm conviction that nothing could result from the action of this Convention except to show that we were worthy of that statehood which we ask at the hands of the United States government, if the people should endorse our action. If my conclusion is correct, —and I have learned nothing from the outside world, I have learned nothing from this Convention to change my convictions—the chief end of this Convention is to secure such an endorsement at the hands of the people as shall convince the Congress of the United States that this is the work of the people and not the work of a few delegates who came here to this Convention, probably elected by less than one-tenth of the voters of the Territory of Dakota south of the 46th parallel. And, sir, I am opposed and have been opposed from the beginning to placing anything in this Constitution, either in the body or otherwise, that shall tend to take away the political endorsement which we hope to receive at the hands of the people. And I am equally opposed to omitting anything which may be properly placed in the Constitution and which shall commend it to the favorable reception of the people. The argument has been that it was wise to have prohibition, either inside or outside of the Constitution; the argument of the other Convention was that it was unwise to put it in; that it would be injurious; so we left it out, and we tried that matter before the people without prohibition, we know the result. I say it has been argued upon the floor of this Convention that it was wise to submit this proposition as to prohibition and as to woman suffrage and as to the minority representation, that we might secure such an indorsement of the people as would put this Convention to one side so that when Congress looked at this it should see the people and not the Convention, and see the work of the people and not the work of the Convention. Now, sir, if that argument has any force as applied to prohibition, if it has any force as applied to woman suffrage, if it has any force as applied to minority representation, it strikes me very forcibly, sir, that it has force as applied to the subject now under consideration. Now, perhaps it is not true, but it has struck the minds of many people that a public office is dear to the Dakota heart. We have been announced abroad as "political emigrants", etc. It may be that these charges have been made so often that they have become to believe that there is something true in them; but, if I remember correctly, outside of this Convention, but in connection with its labors, I have heard the argument advanced that for the purpose of making this matter interesting, for the purpose of enlisting a large body of people, candidates for office, to canvass the country, arouse the people and secure their personal endorsement and thereby the endorsement of this instrument, I have heard it argued that it was the part of wisdom to prepare for an election of officers. Now, so far as this doctrine that we have heard discussed here is concerned I do not desire to go into it. There are gentlemen who believe that we have an absolute right to set up a state, that we have a right to be a state out of the Union. I do not say there is a gentleman on the floor of this Convention that so believes, but I believe there are people in this Territory, and intelligent people, who think that we have a right to be a state, and if we are not a state, in the Union it is not our fault, but the fault lies at the door or the United States government. However, that may be, I am opposed to the adoption of the resolution that has been offered by the gentleman from Turner County. We have a solemn duty imposed upon us; we are here to form a constitution that shall commend the people south of the 46th parallel to the favorable consideration of Congress, as I said before, and it occurs to me that it is our duty not to so conduct ourselves that instead of being able to secure such an endorsement we shall on the contrary secure a verdict of condemnation that shall bury this instrument out of sight. I am opposed to the resolution of the gentleman from Turner for the reason that I believe it will tend to have that result. That is as I believe, and I honestly believe, and I come from a location, sir, that has never served its own selfish purpose when the interests of South Dakota or public interests have been at stake, but on the contrary every interest it had was sacrificed by them in the legislature and elsewhere that the rights of the people of South Dakota and the reputation of the people of South Dakota might so stand as not to conflict with the steps that should be subsequently taken with the view of gaining a position of statehood. I am opposed to the resolution of the gentleman from Turner for the reason that it will make the word of the Convention subject to well-deserved ridicule, in that it should advertise to the people throughout this Territory that they have to be elected to offices which do not exist. I think we heard them called "boodle offices" on the floor of the other Convention.

A Member: "Dude offices."

Mr. Dollard: "Dude offices", so it was. I am opposed, sir, to advertising that, because I am fearful we shall get no candidates who will go into the field and work for the interests of this Constitution. We must have men in the field who are interested, and there is no way so efficient to enlist a man's interests as to arouse his own selfishness. That is the fact, we might just as well honestly admit it. Now, I am not a believer in the doctrine of state soverignity to such an extent that I believe the people have the power to set up a state government and set its wheels in motion independent of Congress, but I am willing that every man who is a candidate for office shall believe it, and I am willing that the declaration shall be as the gentleman from Yankton has it in his resolution. We have burdened this instrument with some things, and I want to call your attention to one that strikes me somewhat humorously, which is under the head of corporations. We have said that the legislature shall pass laws to correct abuses and to prevent discrimination and extortion in the rates of freight and passenger tariffs, etc., and there are people who will read that and honestly contend that there is no distinction between a man and a hog; that this Convention has been so utterly hostile to railroads that it has placed in the proposed organic act of the proposed state a provision that there can be no discrimination made between a man and a hog! The Convention may believe that is very wise; the Convention may believe that that will commend it to the popularity of the people; I believe that is a burden; I believe that that is something that is such a heavy burden that we must have something to counteract it. The members were aroused to such an extent that they thought that by putting a man and a hog on the same level in this country, and giving the hog sufficient elevation here it would compensate for the position which he occupied in the German Empire! Then there is another; there is a provision here as to the rights of married women. It is there provided that a married woman shall be entitled to hold lands free from debts and claims of her husband; all property, no matter from what source received. Why, a man might have a couple of millions; he might be on the verge of bankruptcy ;he might want to save a million or two: but so long as he held it in his own hands it would be subject to his creditors, but by a simple transfer to his wife's hands he has the complete protection of the organic law of Dakota. It may be that the Convention will possibly consider this thing, provided it concludes to endorse the resolution of the gentleman from Turner.

Now, Mr. Chairman, as has been said by the gentleman from Yankton, there is no evidence that the people of this Territory, that the people of the Territory south of the 46th parallel intend to revolutionize. At the former Convention I was face to face with my friend from Yankton on this idea of revolution, which was fully and fairly discussed. I see no danger. Who is going to revolutionize? Are you, Mr. Chairman? Is it the gentleman from Yankton? The gentleman from Sanborn? Why, no; it is "the people". Are there any signs of revolution on the part of the people? It is a fact that they have taken so little interest in this movement that not to exceed one in ten, as I am informed, have cast their votes for the delegates to this Convention, and the great majority of them do not know now that the Convention is in session. Is that evidence that the people are on the verge of revolution? I regard this, sir, as a kind of jack o'lantern, and if anybody wants to follow this jack o'lantern with the view of getting a public office I am willing they should do so, and I am strongly opposed to the resolution offered by the gentleman from Turner.

Mr. Haines: I may be excused if I in a manner digest the argument to which we have just listened, and get at its substance, which seems to be about this: That in order to have this Constituiton endorsed and good men run for office under it, we must hold out to them a kind of impossible sugartit! That is about the whole of it. Persuade them they are running for the offices and get them in by false pretenses.

Mr. Brookings, of Minnehaha: There are certain rights which these people of Dakota have, and there are other rights which they have not. This people, under the right of petition have a right to meet here and form this Constitution, and they have a right to elect officers under this Constitution. Formation of this Constitution we might say is like a big steam engine. We have drawn the Constitution; that is the engine; you go to work and elect all the officers in this state for a state; elect them for Congress; we elect Senators to Congress; what are they? They are the fire in the engine; the water in the boiler; we have everything ready. I say, now, after we have everything ready, that we may have the engineer on the engine. Now, there is this distinction; when you have got all that ready, that engine won't move. It is necessary before you can move that engine that you apply the fire to the fuel. I say apply the fire. Now, we can proceed so far in this Constitution; we can go just thus far and no farther. That is, we can form the Constitution; we can elect our officers; but we never shall become a state until Congress has breathed the breath of life into the state. Before that time I say we shall never become a state, unless we become a state, an independent state, outside of the United States, by revolution. Now, there is all there is in this talk. There is nothing more; nothing less.

They tell about "dude officers." These officers we have a right to elect so as to be ready if Congress says "Yes, you have all the qualifications of state hood; you have a constitution, you have your officers elected ready; we will admit you." Then we are ready to move off; sail off smoothly in statehood. We know that our enemies will cry against our "revolution"; we are trying to set up a government within a government, and all that, and it seems to me it is proper policy for us to define just what we mean. We don't want to define anything more than the law nor less than the law—.

Mr. Campbell, of Yankton: Will the distinguished gentleman from Minnehaha allow me to ask him one question?

Mr. Brookings: Yes.

Mr. Campbell: It is this: I asked the question of the delegate from Turner, but he did not answer: Is there any more danger, in your judgment, of the people of Dakota Committing revolution than the people of Iowa, California or Oregon?

Mr. Brookings: (Emphatically) No; no.

Mr. Campbell: If not, why do you want to put a stronger bridle upon them in the Constitution than was necessary in these other states?

Mr. Brookings: It is this: I do not want the people to say "Here's these dude hot-heads; we will just put our hands on them at the polls and pull them down". There you are.

Mr. Campbell: Will the gentleman be kind enough to specify what "hot-heads" he wants to sit down on?

Mr. Brookings: (To the Convention) He sometimes asks questions that are hard to answer. If the people get a notion into their heads that there are hot-headed officers they will sit down on them. I believe we have a right to go in as a state. I don't know whether the gentleman from Yankton believes we have any right to go any further than I do. The only difference is one of policy, and as a matter of policy hadn't we better destroy the arguments of our enemies before they have the opportunity to make them to our disadvantage? We have a right to ask admission as a state. It is sometimes said by the papers that the Demorcats are going to oppose us anyway. I believe we have rights, just as the gentleman from Yankton does. I believe we have just rights and moral rights, and I don't believe we have a right to assert that Congress is going to reject us, because it happens to be Democratic. We first must try that Congress, and we have reason to expect as much justice from a Democratic Congress as anyone else. You see the Chicago Times pitching into our "revolutionary character" and all those things; now let's just say by adopting this resoluiton of the gentleman from Turner that "There is no revolution about us." We are acting under the law; we are acting under our rights, and we propose to earnestly insist apon and demand our rights, and we do not propose to do anything more." Now, I say, just as a matter of policy it seems to me if we want to carry this Constitution by a large vote we had better adopt the resolution of the gentleman from Turner.

Mr. Haines, of Turner: Will Judge Campbell be kind enough to repeat the question I did not answer?

Mr. Campbell, of Yankton: Why is there any more necessity for the Constitutional Convention of Dakota to put a guard against its people being revolutionary than there was for the convention of Iowa, or Massachusetts or Oregon or California to provide for the same kind of guards?

Mr. Haines: That is, do you characterize this resolution as being a guard against revolution?

Mr. Campbell: I cannot understand it otherwise.

Mr. Haines: Will the gentleman please read his own resolution?

Mr. Campbell: Yes, sir; the resolution is "Nothing in this Constitution or schedule contained shall be construed to authorize the Legislature or the state government which may be elected to exercise any powers contrary to the laws or Constitution of the United States."

Mr. Haines: I answer the gentleman's question by asking him another: What necessity do you conceive exists for your resolution?

Mr. Campbell: The necessity that existed for my resolution was the fact that there was a single man on this floor who thought it was necessary to put in disguised words what he did not want to put in open words,—an express fear that the people of Dakota could not govern themselves; and it was to bring out in exact words the meaning or your provision and the very fear it suggested so that the people might know who distrusted them and who did not.

Mr. Haines: If yours covers the same ground why accuse me of insinuating that the people of Dakota are disloyal?

Mr. Campbell: I say simply because it seems the gentleman and others were afraid that we were doing something revolutionary. Some way or other, it has got into the air that there is danger here; "gunpowder"; and someone is going to blow us up for putting it in here, or get us into revolution before we know it. In as much as you have urged that resolution I thought it best to disclose the very meaning of it before the Convention had voted.

Mr. Jones, of Miner: I am sorry, for one, that there is one delegate upon this floor that can get up and acknowledge that he came here without any faith in the movement at all; that he steps up here from BonHomme County to throw cold water upon this whole scheme. I am sorry that there is such a delegate in this Convention. Another statement that the gentleman made I protest against. That was that not more than one in ten polled votes, in South Dakota, to send this delegation here. A little over half of the voting pouplation of Miner County sent my colleague and myself here; and the gentleman knows and you all know that that election was ordered at such a time of year that it was almost impossible for the farming community to leave their work.

Mr. Gehon, of Lincoln: This seems to be a free fight. I want to give some of my ideas of our business here. What are we here for and how are we here? (Cries of "Hear" "Hear" "Hear", and great laughter.) We are here under the act of our Legislature. and that Legislature was created by this thing that we call the Congress of the United States. Now, when I look over this Convention I think that I see the sovereignty of the people of Dakota here; that the sovereignty of the people of Dakota is represented here, and for a certain purpose; that is to create something under which we are to live hereafter; that something that we call a constitution. We have gone on and made the different component parts of that thing. We have almost got it completed, but we seem to disagree a little about whether it shall have any life or not. Now, my idea is when we get those officers, executive, administrative and judicial, elected, we have got the image completed. Can we breathe into it, though, the breath of life? As the learned gentleman from Minnehaha says, it takes Congress to do that act; and, in my opinion, we have got just as far as we can go when we do that, unless it is revolution. It is a very fine thing to talk about the sovereignty of a free and independent state and all that kind of thing. Now, there might have been a day in these United States when that was so, but in fact it does not exist today. We are here by the authority of the United States, and under that act passed by our Legislature we have the right to create and form this Constitution, but we cannot breathe into it the breath of life.

Mr. Fowler, of Pennington: I move you, sir, that the Committee do now rise and report progress. (Derisive laughter as as to the word "progress".) (Seconded, and cries of "question; question".)

By the Chair: The question is on the adoption of the amendment of the gentleman from Yankton, and that question will have to be disposed of.

Mr. Fowler: The question is that we now rise.

By the Chair: I do not think that is in order now.

Mr. Reed: Mr. Chairman, a motion for the Committee to rise and report progress is in order.

(The Chair entertained the motion that the Committee rise and report progress, and division was called for. There were 32 for and 17 against; the motion therefore prevailed.)

Convention.

(President Edgerton in the chair.)

By the Chairman of the Committee of the Whole: Mr. President, the Committee of the Whole have accomplished nothing; simply rise and report progress.

By the President: What is the pleasure of the Convention?

Mr. Campbell: I move you, sir, that the Committee have leave to sit again. (Seconded.)

Mr. Haines: Is this a debatable question? The motion is made and seconded that the Committee have leave to sit again.

By the President: I do not understand that to be the recommendation of the Committee; there is nothing before the Convention.

Mr. Owen: I would like to call attention to an accidentally revolutionary provision that has crept into our schedule, in Sec. 9. "This Constitution shall be submitted for adoption or rejection, to a vote of the electors, qualified by this Constitution." Now that is a mistake; of course it is not intentional. I don't think Mr. Haines' resolution reaches this point at all. The act under which we are called declares that the electors qualified to vote by the laws of the Territory shall be the persons to vote upon the adoption of this Constitution.

Mr. Campbell: What line do you refer to?

Mr. Owen: Line 39, page 2. Now, we adopted this report today; there was a reconsideration moved and that was laid on the table in order to prevent subsequent consideration of it I suppose. Page 93 of the laws of '85 declare that one must reside in the county sixty days in order to be a voter; we have provided in our Constitution that when one has resided in the county 30 days he shall be a voter; under the laws of the Territory one must reside in the precinct 20 days in order to vote; our Constitution says that one who has resided in the precinct 10 days may vote on this, this fall. This ought to be remedied in some way, and I suppose the resolution offered by the gentleman from Turner will not reach that point.

I do not fear the United States government, nor revolution, nor gunpowder, nor any trouble. Why, you could not arouse the people of these prairies to revolution any more than you could lift a ten-ton pile-driver with a knitting needle, but if you send out this schedule with this ambiguous provision in it, why there will be people who will be afraid that there is something wrong, and that will be completely snowed under, and we will have no constitution. Now, I have come from the prairies of Kingsbury County, and I can tell you it is so. I am right among the voters and among the people in the country, and without—

Mr. Moody, of Lawrence: I rise to a point of order; I believe there is nothing before the Convention. If the gentleman desires to move an amendment, that the qualified electors shall be the same as under the laws of the Territory, why I presume it will be adopted unanimously.

Mr. Owen: I do not suppose that is in order at this time.

Mr. Campbell: I ask the unanimous consent of the Convention to amend Section 9, of the schedule, line 39, after the word "qualified" by striking out "this constitution" and inserting the words "the laws of the Territory". (Seconded.)

By the President: It is not in order except by unanimous consent.

Mr. Moody: Mr. President, this is the Convention and not the Committee. If it takes a motion—if that is the opinion of the Chair,—I will make that motion. Of course the ordinary report was made by the Committee of the Whole except that they did not ask leave to sit again. The Committee arose and reported progress, and of course there is nothing to adopt; they simply report progress. The next motion in order is a motion to discharge the Committee, or a motion to go into Committee of the Whole again.

By the President: The Convention this afternoon adopted the report of the Committee, and to seal that so as to place it beyond postponement or amendment, reconsideration was moved and the motion to reconsider was laid upon the table. That concludes it, as I understand it, except by unanimous consent.

Mr. Moody: This amounts to an instruction to the Phraseology Committee to use the other language. It would undoubtedly mean the same thing.

By the President: I presume if that be the ruling Mr. Haines can do so also.

Mr. Moody: I do not understand that Mr. Haines is precluded from urging that resolution.

By the President: It is not a resolution; he makes the motion as an additional section and that is in order.

Mr. Campbell: I do not understand that there is any objection raised, and I ask the unanimous consent to make this change.

By the President: If there is no objection raised it will be allowed.

Mr. Campbell: I move to amend Sec. 9, line 39, by striking out the words "this constitution" and inserting the words "the laws of the Territory."

Mr. Moody: In order to get Mr. Haines' resolution before the Convention properly I move that the Committee of the Whole be discharged from further consideration of Mr. Haines' resolution, and then we can take it up in the Convention. (Seconded and carried.)

Mr. Haines: In what position does this stand at this time?

Mr. Campbell: I rise to a point of order; there is a motion before the Convention, to amend Section 9—

By the President: (Interrupting Mr. Campbell to answer Mr. Haines). It is made the special order for this hour and is before the Convention.

Mr. Campbell: I move the further consideration of this question be postponed until tomorrow morning at the usual time. (Seconded.)

Mr. Haines: I believe this question is debatable. It is known that a large number of delegates will leave tonight, and a postponement is manifestly improper for that reason.

Mr. Brookings: I wish to say that I understand the Constitution will be ready at 12 o'clock tonight. Now let us understand this matter. We may be gone in the morning, and I hope the motion to postpone will not prevail. (The motion to postpone was lost.)

Mr. Moody: Mr. President, I offer this amendment to the proposition and section of the gentleman from Turner, at the end thereof: 'Except such as may be authorized by Congress of the United States.'

Mr. Haines: I accept the amendment.

Mr. Owen: Upon what are we voting.

By the President: Upon the motion of Mr. Haines.

Mr. Campbell: I will ask for a little fair play here. I move as a substitute for the resolution as amended, the following resolution, the same as submitted in the Committee of the Whole: "Nothing in this Constitution or Schedule contained shall be construed to authorize the Legislature or the state government which may be erected to exercise any powers contrary to the laws or Constitution of the United States."

By the President: Is there any objection? If not, the motion is the substitute offered by Judge Campbell. (Lost.)

By the President: The question recurs on the resolution offered by the gentleman from Turner, as amended. (Carried.)

Mr. Reed, of Sully: Mr. President, I move you now that we proceed to the selection of the Executive Committee as provided for in the Schedule. (Seconded; carried.)

Mr. Brookings: I move we elect them by ballot. (Seconded.) Division called for, and the motion was lost by a vote of 31 for and 36 against.

Mr. Kellam, of Brule: Mr. President, I move you that the Convention do now take a recess for 15 minutes for the purpose that the delegates from the different judicial circuits, as divided by the Constitution, can meet in different parts of the hall, and they deliberate and select from each circuit a member of this Executive Committee to recommend to this Convention. (Seconded and carried.) After recess of 15 minutes the Convention was called to order by the President.

Mr. Westfall. Mr. President, I should like to ask leave of absence.

By the President: If there is no objection leave will be granted.

Mr. Moody: Mr. President: I move you sir, that delegates from each circuit now nominate to this Convention the gentlemen they have selected for their member of this Executive Committee, commencing with the first. (Seconded.)

By the President: Such will be the order unless objection is made.

Mr. Dollard, of BonHomme: The First Circuit nominates Major Hanson, of Yankton County, as its candidate for membership on the Executive Committee.

Mr. Brookings, of Minnehaha: The Second nominates Mr. Beebe, of Minnehaha County.

Mr. Moody: Let us select one at a time.

A Member: Oh, no.

Mr. Moody: Well, all right; go ahead.

Mr. Lowthian, of Grant: The Third Circuit nominates Mr. Updyke, of Codington.

Mr. More, of Beadle: The Fourth Circuit nominates John Cain, of Beadle.

Mr. Crose, of Hyde: The Fifth nominates James A. Ward, of Hughes County.

Mr. Fowler, of Pennington: The Sixth nominates Andrew J. Simmons, of Pennington County.

Mr. Moody, of Lawrence: And, Mr. President, on behalf of the delegates of this Convention and of the people at large of the coming state of South Dakota, I nominate for President of the State Executive Committee, that grand old wheel-horse of this movement, Judge Campbell. (Great applause.)

Mr. Haines, of Turner: I rise to second most heartily that nomination. (Prolonged applause.)

Mr. Kellam, of Brule: I move that the several gentlemen who have been named by the Circuits, and Judge Campbell as named by the State at large, constitute the State Executive Committee, as provided for by the Schedule.

Mr. Corson, of Lawrence: I second the motion. (The motion prevailed, without a dissenting vote.)

A Member: I move we now adjourn. (Seconded.)

Mr. Moody: We cannot tonight receive and act upon the report of the Phraseology Committee, but we can do it by commencing at 9 o'clock sharp, tomorrow morning.

Mr. Fellows: of Aurora: I would like to make the further announcement that it is almost impossible for the Committee on Expenses to report tonight, but we can in the morning. (Adjourned.)

EIGHTEENTH DAY.

Just before the opening of the Convention the Sergeant-at-Arms sang "Marching Through Georgia"; his fine baritone ringing out the old war song, which was caught up by the members and sung with a sympathy which none but a soldier can feel, and which was apparent in many glistening eyes and quivering lips.

The Convention was called to order by the President.

Prayer was offered by Rev. S. G. Updyke.

Let us pray. Almighty and everlasting God, we come before Thee with our morning prayer upon our lips, and desire the inspiration of Thy spirit that our hearts may be consecrated to Thee. That Thy blessing may rest upon our beloved President of this Convention and upon each of the members here assembled; that the work they shall do may be done with an eye to Thy glory as well as the welfare and advancement of the people. And as our hearts come before Thee this morning recognizing the Father as a searcher of hearts, we pray that we may have the disposition to do better than upon any preceding day. But what are these things, Almighty God, what are these mighty affairs of the State in comparison with the eternal interest which centers in every heart. Let Thy blessing rest upon us in the forgiveness of our sins, in the clearing up of our conceptions, in the obedience to our laws and in the service of the Church and the State, to the glory of Thy name. Amen.

Mr. Moody: I desire to offer a resolution, leaving the blank to be filled in when the sum is ascertained; in order to comply with the direction contained in the law requiring this Convention to certify to the entire expense, up to the day of adjournment: Resolved that the proper officer of this Convention shall certify to the sum, and which shall be attesetd by the Secretary of the Convention, and shall be endorsed by the Secretary of the Territory, and filed with him, etc.

The resolution is adopted.

Mr. Neill: I ask the consent of the House to introduce a motion which is very necessary in order to fill up certain blanks.

Secretary reads the resolution: I move to insert in the report of the Schedule Committee, line 41 and 42, page 5, and line one on page six, the following names:

J. R. Hanson.
E. P. Beebe.
S. G. Updyke.
John Cain.
J. A. Ward.

In line 2, page 6, insert the name of H. J. Campbell.

Mr. McCallum in the chair.

Mr. Ward, of Yankton: The Committee on Arrangement and Phraseology are ready to report a full report; I will state, sir, that we have taken the various reports as they have come to us from the Committee on Engrossment and had them again engrossed and have compared the engrossed copy with the original documents and have arranged them and have compared again the arrangement for the third time and have compared the copies as last engrossed with the original documents. I will state that a few of the reports are yet remaining in the hands of another member of the Committee but will be here a long time before we are ready to read them; shall I submit the report as far as they are in my hands?

The Chair: Yes, sir, if there is no objection.

Mr. Campbell: I think that in justice to ourselves with the care we ought to exercise and I rather think it will be in accord with the wishes of the Committee, we ought to take the time to read this carefully over; in order to get the sense of the Convention; I make that motion; and let the members sign the Constitution.

Which motion prevailed.

Mr. Campbell: I desire to ask the unanimous consent of the Convention to submit the report of the Committee on Expenses.

The Chair; If there is no objection the gentleman will read.

(On file with the Secretary.)

The report was accepted and adopted.

Mr. Owen: Before reading the report of the Committee on Phraseology I would like to ask the Chair, in case any delegate discovers an error will he be permitted to make known the error at the time or should he make it know at all?

The Chair: I apprehend that if an error is discovered, attention ought to be called to it in very few words, at once.

Secretary here proceeds with the reading of the Constitution.

Mr. Coffin: I move that we do now adjourn.

Mr. Kellam: Will the gentleman give way for one moment; I at this time offer the following resolution: (Thanking Judge Edgerton for the manner he has presided over this Convention.)

(On file with the Secretary.)

(Also that the earnest thanks are due the employees, and officers of the Convention.)

(On file with the Secretary.)

Both of which resolutions were carried.

Convention stands adjourned until two o'clock P. M.

Mr. Frank, of Lawrence: I desire to announce the arrival of William H. Parker, whom we elected a delegate from Lawrence County, and ask that he be sworn in.

By the President: The gentleman will come forward and be sworn in. (The President administered the oath.)

Mr. Neill, of Grant. Before the Convention proceeds to the reading of the Constitution, I wish to refer to a matter of current business. Day-before-yesterday there was a report submitted by the Printing Committee that 100,000 copies of the Constitution in supplement form be printed. Their report was adopted and the Committee was directed to take contracts or estimates, and were also instructed in regard to another matter not in question now, and to which I need not refer. The Committee on the strength of that resolution made inquiries as repidly as possible and learned that it could secure the printing of those copies for $850.00. It was given out as an understanding to the gentleman that if he wanted the contract at that figure he could have it if endorsed by the Convention. In the afternoon there was a resolution introduced in this House by, I do not know whom, nor care whom, but it coveredthe resolution of the Printing Committee of the morning previous, and also other matters of printing. After the second resolution had passed a gentleman came along to the Chairman of the Printing Committee and wanted to bid on that contract for 100,000 copies. I told him that we had virtually let the contract; he wanted to know how that could be, as the resolution had passed just a few minutes ago asking us to do it; I told him that was a mistake, that it was passed in the morning; that great haste was necessary as we were just on the eve of adjournment, and that the figures proposed by the other gentleman were the lowest we had been offered and that, after making all the inquiry possible, in view of the great haste necessary we had promised the contract to the other gentleman. I afterwards learned that he was right and that another resolution had been presented and adopted without my knowledge. It seems that the resolution of the morning was passed without the knowledge of Mr. Wynn, of the Argus, who was present when the second one was passed. And it seems also that a committee of fifteen was appointed to carry out the provisions of the second resolution; this also was unknown to me, though I was Chairman of the Printing Committee. Then we went and told Mr. Caldwell, who had agreed to do the work for $850., that he would have to present the matter to the Committee of Fifteen, which he did, and came up last night, and on the best advices that Committee had they agreed to let him have it at the same figures. Mr. Wynn did not go to this new Committee at all, although he knew of their appointment and knew that upon that Committee I was only a member, not the Chairman. Thursday night the Committee of Fifteen re-let the contract to Mr. Caldwell and it was reported to the Convention this morning and ratified. I understand it has been charged on the streets that the Chairman of the Printing Committee—myself—had been letting contracts at high figures and was probably making something out of it myself. I never have so made a cent in my life and I never intend to. If the printers were making a thousand dollars profit out of it I should not be the richer by one penny, but I do not think they are receiving more than a reasonable price for the work. I am willing to be corrected if I am wrong, but I wish to present this matter squarely to the Convention, that it may not be charged that any underhanded work has been done by the Printing Committee or any individual member of that Committee. I now wish to read the proposition of the gentleman connected with the Argus. (Reading the same.) That is Mr. Wynn's proposition. The question is whether this Convention wants to take any other action than has already been taken by the Committee.

Mr. McLeod, of Brown: I move that the rules be suspended and that Mr. Wynn be given an opportunity to be heard. (Seconded.)

Mr. Moody: Mr. President, it seems to me that the members of this Convention are responsible men; they have authorized a contract; the contract has been made; it has been reported to the Convention and it has been approved and passed. Now, isn't that about the end of it? Do we want any more of it? Why, isn't it the case in almost every transactoin that after a contract has been let for the doing of work, some man comes in and says, "Why, I would have done it for less than that; I would have underbid it." Certainly all these proceedings were public and well-known to everybody. I think that we ought to act as men and not fools at this stage of the proceedings. This Committee of Five and the Committee of Fifteen were both entrusted with this duty and they have performed it, the presumption is fairly—

Mr. McLeod, of Brown: According to the confession of the Chairman of the Printing Committee there has not been proper notice given that there were contracts to let. This work was let for $850.; I can show you where this work can be done for $250. at the very outside. There is not more than eighty or one hundred thousand "ems" in this. That can be set up at the outside for thirty cents a thousand; the press-work can be done on 100,000 at one dollar a thousand; for the paper we will allow another $100. This thing is let at $850. without due notice being given and it is for that reason that I made the motion that Mr. Wynn be allowed to be heard, that he might explain it himself. The Chairman told Mr. Wynn that the contract had been let and afterward he went and notified the Press man—but not the Argus man—to go before the Committee of fifteen; therefore the other party didn't have an opportunity to be heard at all.

Mr. Jessup, of Faulk: I feel that the matter has been settled and that this Convention should leave it settled. but as a member of that Committee I wish to say that I have conversed with four different printers, and when we let the contract we did it at the lowest figure we could get, supposing we could do no better. As far as Mr. Wynn is concerned, I never met the gentleman and didn't know he wanted to do the work. I know that I talked with four different printers from 24 to 48 hours before, and I supposed everybody knew all about it.

By the President: The motion is that the rule be suspended and that Mr. Wynn be invited to make a statement before the Convention in reference to this matter under discussion. (Division called for. The motion did not prevail.)

Mr. McLeod, of Brown: Mr. President, I believe it is in order: I have a protest to offer. (Same was read by the Secretary and filed.)

Mr. Neill, of Grant: I would like to inquire of the gentleman who presents the resolution, if he considers that the Committee were required to give notice that these contracts were to be let, or if he holds the Convention responsible for that part of it? I want it distinctly understood that everyone of those propositions on printing submitted to the printing Committee were expected to be attended to at once and estimates either made that evening or the next morning, as in the case of that resolution passed embracing so many items. That came to my notice about six o'clock in the evening and we were required to report at half-past seven next morning to a sub-committee. We did the best we could at that time and every time. As regards the letting of this particular contract, the Committee have done the best they could, with this in mind, that that was a very responsible part of the work of this Convention to get those copies properly circulated, and we felt that Mr. Caldwell was better qualified to undertake the work than other persons and particularly any person who was openly opposed to the work of this Convention. We felt that we were giving it to a man who would just as faithfully do it as we would. He gave us his assurance that he had just as much at stake in the matter as we had, and that he would do it just as reasonably as it could be done, and if it does not require that full amount he is perfectly willing to return that part that is not used. I am satisfied that if the whole is not necessary, Mr. Caldwell will not take it.

Mr. Jessup: That is only the maximum figure; we were willing to allow that so that the gentleman might save himself. It may not cost over $500.

Mr. Kellam, of Brule: I call for the order of business.

By the President: The Secretary will read the order of business.

(The Secretary read the protest offered by Mr. McLeod.)

Mr. McLeod, of Brown: That is not a resolution of any kind, but merely the fact that I protest and want it entered on the Journal.

The Secretary reads the report of the Committee on Congressional and Legislative Apportionment. Also Miscellaneous, Seal of State and Coat of Arms, Compensation of Public Officers, after which Mr. Kellam offered the following resolution: "Every person elected or appointed to any office in this State, except such inferior offices as may be by law exempted, shall before entering upon the duties thereof, take an oath or affirmation to support the Constitution of the United States and of this State, and faithfully to discharge the duties of his office."

The resolution is adopted.

Mr. Coffin offered the following: "All real and personal property of any woman in this State acquired before marriage or property in which she may after marriage become in any manner entitled shall be her separate property and not be liable for the debts of her husband;" I move that resolution in the place of the one stricken out.

By the President: In order to get at this properly so that the records may show upon its face it will be necessary to re-consider the motion by which the resolution was stricken out.

Mr. Coffin: I move this as a substitute for the one stricken out.

The President: Unless there is objection, I will entertain the motion to substitute; you desire it to take the same place in the Miscellaneous Article of the one stricken out.

Mr. Coffin: I suggest it appear at the end of the Miscellaneous Article.

The resolution was duly adopted.

Mr. Campbell: I move the report of the Committee on Arrangement and Phraseology to the Constitution as read, be adopted, and that after its adoption, the same be signed by the President and delegates of the Convention and attested by the Secretary, and that after this is done the Committee on Phraseology have it bound in some shape and then it be intrusted to the care of the President of this Convention to be by him transmitted at the proper time to the State authorities.

Which motion prevailed.

Adjourned.

The Convention was called to order at 7:45 P. M., President Edgerton in the chair.

By the President: What is the further pleasure of the Convention?

Mr. Kellam, of Brule: Mr. President, I think the only object in adjourning from this afternoon, after our work was substantially completed, until this evening, was for the purpose of consultation to see if there was anything forgotten. It seems to be the opinion of those who are best informed that there is nothing that has been overlooked. They say the matter has been very carefully looked over since the adjournment and nothing occurs to any gentleman which has been omitted. Therefore, I move that the Convention do now adjourn, as provided in the resolution adopted yesterday, to the first Tuesday in May, subject to the call, in emergency, of the Executive Committee, as provided in the Schedule; and as a part of this motion I also move that the gavel which has been used by the President of the Convention be tendered, with the vote of thanks already recorded in our record, to the President of this Convention. (Seconded.)

A Member: Before the motion is acted upon, I think I am warranted in saying that there are a good many of us who would like to hear remarks from some the gentlemen. (Cries of "Yes; Major Kellam; Kellam; Major Kellam.")

Mr. Kellam: Mr. President, I have just made my speech. There is a motion pending before the Convention, and it would be entirely out of order to make another.

By the President: They are all anxious to hear you, as they always are, Major.

Mr. Kellam: I submit that there is but one man on the floor of this Convention who is entitled to talk to the Convention and whom the Convention is entitled to hear. I think that the record of the proceedings of the last two weeks will fully maintain the proposition that the gentleman who now has the floor has occupied his share of the attention of this Convention.

And I have only to say that, in common with every delegate in this Convention, the thing nearest to me is the success of this enterprise upon which we have been working for the past two weeks; and I certainly can add nothing that would increase the enthusiasm and the interest which I am satisfied is in the mind and heart of every member of this Convention; if I could I would very cheerfully do it. I can only say, as I have said before, that with you I have worked in this Convention; and with you I will work for this Constitution in the campaign and so long as the campaign lasts, the objective point being division and admission of this part of Dakota into the sisterhood of states; and if this shall be accomplished within the next three or four or five months, no man will be better pleased with the result than I. If the campaign shall last one year, two years, three years, or five years, no man will pursue the campaign with greater persistency, industry or interest than I will.

Now, gentlemen, I have the pleasure of introducing to you the only gentleman who has not talked to you nor occupied any part of your attention up to this time,—Colonel Parker, of Deadwood. (Applause.)

Mr. Parker, of Lawrence: A motion to adjourn is not debatable, I understand.

By the President: Everyone is anxious for you to get up and make your bow to the Convention, Colonel.

Mr. Parker, of Lawrence: I can say, Mr. President, and Gentlemen of the Convention, that I regret very much that my business was such as to detain me at home, but I anticipated that this Convention would be longer in session; that it would take a much longer time to complete its labors than it actually did. If I had not so anticipated I certainly should have been with you and joined in your labors. But I know that even if I had been here I could not have added anything to the magnificent and able manner in which the Presiding Officer and gentlemen of this Convention have performed their duty. You have formulated a constitution that I know, Mr. President, will receive the endorsement of a very large majority of the electors of that portion of the Territory that you propose to be admitted into the sisterhood of states; and while I have not been able to join you and participate in your labors, you will find that during the campaign I will endeavor to make up what I have lost. In other words, I will endeavor to perform my duty in advocating before the people of the Black Hills, at least, the importance of bringing out a very large vote and carrying by the largest majority possible this Constitution. I am not prepared to address you upon this subject and I regret it very much, but I say to you, as I have said before, that

I heartily concur in the result of your labors, and I shall contribute all I possibly can to its success. And as I have stated, a motion to adjourn, as I understand the rules of Parliamentary Law, is not debatable, therefore, Mr. President, I call for the question.

A Voice: Let us hear from the President. (Cries of "President"; "President".

By the President: I suppose that means to put the motion to adjourn. (Cries of "No"; "No".) If I could add one word of cheer tonight to this Convention I should be reluctant to refuse to do it. I recognize the fact that in some respects this is one of the most important assemblages that has ever convened in this Territory. I do not think that I am mistaken when I say that nine-tenths of the people of Dakota are in favor of division, and I believe that they are nearly unanimous in Southern Dakota in favor of division and admission. Men ask us sometimes why are we in favor of admission; I would say this: That when a territory like ours, as wealthy as ours is, as large as ours is, and as I believe, as intelligent and law-abiding as our people are, does not desire admission it is an evidence that its people are incapable of performing those higher duties of American Citizenship that belong to citizens of the states. And I say still further than that, whenever territories, large and populous, who have performed all the conditions necessary to entitle them to admission are not received as states into the Union of States, it is a dangerous precedent in my opinion, to the other states. My opinion is that so long as territories are qualified for admission, have the requisite number of inhabitants, have inhabitants that are intelligent and law-abiding, that it is for the safety of the Union that they should be admitted in the shortest time possible. It is not only for our benefit, but for the benefit of the general government that this Territory and all other territories, when they have the same conditions completed that we have, should be admitted as states. It is not consistent with American government that we should have provinces scattered abroad without a representative in the halls of Congress. I do not know as we shall accomplish by admission all that we expect, but whenever we are admitted into the states we shall feel more self-reliance; I believe we will be better men and better citizens. I have not followed all my friends here at this Convention. Take Mr. Owen, for instance; I recognize Mr. Owen as one of my best friends, but I have not followed him in all those—I was going to say innovations, but it would not please him—matters he so earnestly advocates; and one of the reasons I want Dakota admitted into the Union is this: That we may be able to determine after we are admitted as a state, all those matters of local legislation in our own way, our own manner; and therefore I have felt that possibly some of those local measures could be deferred until after we are admitted as a State, when we ourselves should be the sole judges of the best interests of South Dakota.

But one thing more I have to say, and that is this: I wish to return to you my sincere thanks for the kindness and indulgence you have shown me while presiding as President on many trying occasions. I have tried to do my duty as I understood it. I know that I have occasionally run across the opinions of other men, and I am willing to concede to them what I ask them to concede to me, that in all these things we have tried to do what we thought from our standpoint was for the best interests of Dakota. I return to you my profound thanks for the indulgence you have tendered me, and hope when you convene together here again, if you do so, it will be as citizens of a state, and not citizens of a disenfranchised Territory.

The question is now upon the motion to adjourn. (Carried.)

The Convention stands adjourned according to the resolution adopted yesterday and the schedule of the Convention adopted today.

ADJOURNED.

INDEX

The references are to pages.

Aberdeen Convention ... 602
Accounts, how audited ... 53
Adjournment ... 198, 325
Admission of Dakota, Political issue 1888 ... 47
Agricultural Appropriation ... 174
Alexander, Frank ... 56
Allen on Exemptions ... 555
    Limits Time on Debate ... 247
    Delegate 1889 ... 56
Andrus C. E. ... 56
Andrews S. Fry ... 6
APPORTIONMENT—Committee Report ... 159
    Of delegates ... 50
    Remarks by Mr. Cranmer ... 206
    Remarks by Mr. Neill ... 206
Resolutions by Mr. Tousley ... 251
APPROPRIATIONS—
    Expense of Convention ... 54
    Petition of Mr. Lyon ... 113
    Resolution of Mr. Brookings ... 125
    Resolution of Mr. Tousley ... 147
    Suggested by Mr. Campbell ... 563
ARTICLE—
    On Judiciary ... 164
    On Prohibition ... 174
Arrivals late to Convention by Mr. Kanouse ... 109
ASSESSMENT—
    Corporation property, resolution by Mr. Gregory ... 146
    Corporations ... 462–463
    Railroads ... 464–465–466–468
Authority to publish ... 3
Avery, Assistant Secretary of Convention ... 60
Avery, H. M. ... 8
Baker, J. M. ... 46
    On Printing ... 97

Ballot, Form of ... 616
BANKS AND BANKING—
  Mr. Kellam ... 548
  Mr. Corson ... 549
  Mr. Fowler ... 550
  Mr. Fisher ... 550
  Mr. Neill ... 551
Beadle, Dr. W. H. H. (General) ... 5–6
Beebe, E. P. ... 56
  Banking and Currency ... 202
  Tax Exemptions ... 472
Bennett, John E. ... 47
Berdahl, A. J. ... 56
BILL OF RIGHTS—
  Report of Committee ... 131
  Mr. Kellam ... 250
  Debate on ... 280
  Amendment by Mr. Campbell ... 340
  Mr. McCallum ... 342
  Mr. Ward ... 342–343
  Mr. Moody ... 343
Blair, H. H. ... 46
  Resolution on Public Service ... 149
  Subject of Discussion in speech of Kanouse ... 62
Booth, Stephen M. ... 56
  Mining and Water Rights ... 532
BOUNDARY—
  Mr. Neill ... 432
  Mr. Dow ... 432
  Mr. Moody ... 433
  Mr. Fisher ... 434
  Mr. Campbell ... 434
  Mr. Neill ... 435
  Mr. Frank ... 436
  Mr. Lowthian ... 436
Bower, W. C. ... 6
Bribe, Resolution on, by Mr. Campbell ... 216
Britton, C. C. ... 56
  Suffrage ... 424–425
  Tax Judgments ... 495
  School Funds ... 501
  School Lands ... 504
Brown, Robert J. ... 57
  Motion on Referendum ... 175
  Remarks on Age of Representatives ... 184
Brown, T. G. Stenographer ... 94
Brookings, W. W. ... 56

  Nominates Mr. Avery as Assistant Secretary 60
  Election of Sergeant at-Arms 61
  Printing 100, 115, 118
  Appropriation Bills 125
  Legislative Report 179, 185, 207
  Legislative Apportionment 181
  Judicial District 263–267
  Judicial Elections 270–271
  Jury Trial 283
  Three-fourths Jury Plan 284
  Bill of Rights 288–333
  Suffrage 394–395–397, 409, 424
  Compensation of Public Officers 202, 520, 527
  Assessments of Railroads 464
  Assessments of Corporations 545
  Condemnation 293–303
  School Officers 454
  School Lands 502–505, 597
  Committee of the Whole 244
  Municipal Indebtedness 526
  Two Mill Levy 459
  Tax Exemptions 472–473, 483
  Capital Location 437
  Mine Inspection 534
  Preamble 579
  Codification of the Laws 605
  State Rights 648
Cain, John 60
Caulfield, Bernard G., 6
  Canton, Delegate Convention, June 21, 1883 6
Campbell, General Hugh J., 5, 57
  Appropriations 563
  Assessment of Corporations 463
  Assessment of Railroads 465
  Bill of Rights 340
  Boundary, Northern 434
  Remarks 317
  Resolution Concerning Census 87, 151
  Condemnation 293
  Distribution of Funds 603
  Form of Ballot 622
  Janitor 62
  Legislative Corruption 216
  Legislative Session 615
  Legislative Members 213
  Powers of Legislation 233
  Legislative Report 179, 241

    Special Legislation 230, 313
    Mining and Water Rights 532
    Preamble 578
    Printing 87, 95, 115, 114, 118
    Prohibition 368, 387, 633
    Revenue and Finance 543
    School Lands 503
    Separate Subjects 607, 612
    Special Privileges 320
    States Rights 634
    Suffrage 422, 428
    Tax Judgments 495
Capital Huron 47
    Cities Contesting 47
    Mr. Moody 413
    Location 437
CENSUS—
    Campbell, H. J. 87, 151
Churchill, J. B. 57
City and Township Organization 146
Clergymen 62
Clerk 102
Codification of Laws 605
Coffin, F. F. B. 57
    Assessment of Corporations 462
    Compensation of Public Officers 523
    County Seats 450
    Military 187
    Nepotism 325
    Public Institutions 175
    Publication of Laws 240
    School Fund 517
    School Lands 599
    School Land Lease 509
    Resolution on State Motto 147
    Resolution on Married Woman's Rights 664
    Tax Exemptions 490
Commissioner of School Lands 202
COMMITTEES—
    Additional Members 113
    Address 216
    Amendments and Revision of Constitution 84
    Amendments, Report by Mr. Dow 202
    Apportionment 79
    Arrangement and Phraseology 85
    Arrangement by Mr. Ward 659
    Banking and Currency 84

Banking by Mr. Beebe 202
Bill of Rights 81, 131
Compensation of Public Officers 85, 202, 520
Corporations 82, 133
County and Township Organization ....
Education and School Lands 79, 595
Election and Right of Suffrage 81, 201
Engrossment and Enrollment 85–86
Executive and Administrative 78, 143, 250
Exemptions, Real and Personal 83
Expenses and Disbursements 86, 100
Federal Relations 81
Impeachment and Removal 101, 154, 637
Judiciary 78, 164, 200, 254, 391, 366, 563
Legislative 78, 138, 159, 205, 365
Manufactures 85
Meeting, Time, Place, Etc. 104
Memorial to President of U. S. 216
Military Affairs 84, 114, 126, 187
Mines, Mining and Water Rights 83, 173
Miscellaneous Subjects 85
Municipal Corporations 81, 157
Municipal Indebtedness 156
Name, Boundaries, Seat of Government 81
Preamble 86
Public Accounts and Expenditures 83, 172
Printing 79, 94, 95, 97, 98, 538
Report 244, 246
Revenue and Finance 82, 201
Rights of Married Women 84
Roads, Bridges and Internal Improvements 83
Rules of Order 62, 64, 110, 158
Schedule and Ordinance 84–85, 457
Seal of State, Coat of Arms and Design 79
Standing 75–76, 100
State Institutions 83
Whole, of the 176
    Kanouse, Taylor 176
    Legislative, also Mr. Moody 186
    Report 187
    Report 204
    Report 216
    Mr. Brookings 244
    Report 275
    Report 280
    Report 302
    Report 332

Report 391
Report 418
Report 499
COMMUNICATIONS—
Aberdeen Convention 602
J. A. Pickler 457
W. C. T. U. 113, 457
Compensation of Clerks 619
COMPENSATION OF PUBLIC OFFICERS—
Mr. Brookings 520, 527
Mr. Coffin 520, 523
Committee Report 520
Mr. Fisher 524
Mr. Fowler 525, 528
Mr. Harris 525
Mr. Meyers 525
Mr. More 528
Mr. Stone 528
Mr. Ward 524, 527
Compulsory Education 149
Concurrent Powers, Moody and Campbell 233
Congress, Kellam, Gifford and Moody 47, 150, 276
Condemnation Proceedings, Brookings 293, 303
Campbell 293
Conniff 336
Corson 334
Cranmer 293
Fowler 307, 336
Jessup 337
Miller 293, 335
Moody 291, 294
Owen 292, 303, 305, 334
Stone 294
Ward 299
Conniff, T. H. 57
Condemnation Proceedings 336
Eminent Domain 108
Form of Ballot 621
Laws, Resolutions Relating to 124
Private Property 125
Constitution of 1883 9
Adopted 46
Modified and Submitted 48
Ratified 48
Convention 186, 198, 214, 244, 279, 300, 308, 344, 418
Duty of 52

  - Election of Delegates 45
  - Files of, Lost 48
  - Legislative Authority 49
  - Officers of 53
  - Organization 52
  - Powers limited to 48
  - Provided for 50
  - Years and Places 6, 45, 46, 48
- Corporation Assessment 544–546
- Corporations 133, 173
- Corson, Dighton 57
  - Amendment on School Lands 596
  - Banks and Banking 549
  - Bill of Rights 309
  - Boundary, Northern 585
  - Elected to Supreme Court 47
  - Legislative Report 205
  - Mine Inspection 535
  - Northern Boundary 585
  - Per Diem 218
  - Preamble 576
  - Prohibition 370
  - Proceedings on Condemnation 334
  - Publication of Laws 235
  - School Lands 596
  - Tax Exemptions 472
  - Three-fourths Jury 284
  - Salaries 624
  - Separate Subjects 612
- Counties 124
- County Officers 444–445–446–448
- County Seat 449–450–451
- Craig, T. G. 57
- Craig, Reverened William, Prayer 107, 385
- Cranmer, S. H. 57
  - Apportionment 206
  - Condemnation 293
  - Legislation 175
  - Legislative Report 182
  - Printing 118
  - Prohibition 174–175, 372
  - Publication of Laws 239
  - Suffrage 426
- Crose, Geo. C., on Northern Boundary 590
- Dacotah 146
- Dakota Territory 5

Dakota Citizen's League ... 6
DAY, OF CONVENTION—
  Second ... 69
  Third ... 93
  Fourth ... 107
  Fifth ... 111
  Seventh ... 129
  Eighth ... 153
  Ninth ... 199
  Tenth ... 248
  Eleventh ... 300
  Fourteenth ... 384
  Fifteenth ... 456
  Seventeenth ... 602
  Eighteenth ... 658
Delegates of Convention ... 6
Delegates of Convention of 1882 ... 6
DELEGATES OF CONVENTION OF 1883—
  Akin, Jesse ... 8
  Allen, A. P. ... 8
  Allen, Joseph ... 8
  Banister, G D. ... 8
  Baum, Frank P. ... 6
  Bertelson, A. ... 8
  Bippus, John ... 8
  Boynton, A. ... 7
  Brayton, W. N. ... 7
  Bronson, S. H. ... 7
  Brookings, W. W. ... 8
  Brooks, C. E. ... 8
  Brooks, W. S. ... 7
  Burnam, W. T. ... 7
  Callahan, J. F., ... 7
  Campbell, B. F. ... 8
  Campbell, Hugh J. ... 8
  Caulfield, B. G. ... 7
  Chapman, L. P. ... 7
  Cheever, J. P. ... 7
  Clevenger, G. S. ... 7
  Conklin, J. V. ... 7
  Connelly, T. C. ... 6
  Converse, Alonzo ... 8
  Cort, Charles E. ... 7
  Daboll, S. M. ... 7
  Daley, M. W. ... 7
  Dawson, E. B. ... 7
  Day, H. A. ... 7

Dollard, Robert	7
Duncan, S. W.	7
Eakin, Edmund W.	8
Eakin, Edmund W.	8
Edwards, Dolph	7
Epple, Christian	8
Elliot, J. C.	7
Elrod, S. H.	7
Farmer, Geo. R.	7
Foster, Frank B.	7
Foster, E. W.	8
Gamble, John R.	8
Gatchell, P. A.	7
Gifford, O. S.	7
Gordon, M. J.	7
Grigsby, Melvin	8
Gunderson, Ole	8
Hager, A. B.	7
Hand, George H.	8
Harris, Calvin J. B.	8
Hayes, John	7
Herman, E. A.	7
Houghton, W. C.	7
Howell, B. R.	7
Hunt, N. D.	8
Johnson, Eli	7
Jones, A. Sheridan	7
Kelsey, B. J.	7
Kellam, A. G.	7
Kidder, J. P.	7
Kieth, Charles N.	8
Kimball. J.	7
Knox, P. E.	7
Lake, R. C.	8
Lane, George F.	6
Lawrence, Philip	7
Lewis, Knute	7
Lichtenwallner, W. A.	7
Lovering, W. C.	8
Lowthian, N. I.	7
Lucas, A. B.	7
Mallahan, C. F.	8
McCoy, Charles T.	7
McDonald, Charles B.	7
McDonald, C. W.	7
Mellette, A. C.	7
Mellville, A. B.	6

Miller, Henry 7
Mitchell, A. S. 7
Monoghan, H. B. 7
Moody, G. C. 7
Moulton, M. M. 7
Murphy, B. P. 7
Murray, R. A. 7
Pease, John M. 7
Peek, H. W. 7
Pettigrew, R. F. 8
Pierce, William 7
Qualey, T. R. 7
Reed, Charles 6
Rudolph, M. E. 7
Ruggles, E. R. 7
Rutan, J. E. 7
Schlungen, Mathias 7
Schwindt, G. E. 7
Shefler, C. J. 6
Sherman, A. 7
Sherwood, C. G. 7
Smith, John B. 7
Spicer, R. B. 7
Sterling, Thomas 8
Still, Orange 8
Tatman, John C. 7
Taylor, J. W. 7
Thorne, Albion 8
Tripp, Bartlett 8
Turner, John L. 7
Ward, Joseph 8
Warner, Porter 7
Waterhouse, A. J. 7
Wellman, C. S. 8
Wentworth, R. 7
Whalen, J. E. 8
Wheelock, E. D. 7
Wheelock, A. B. 7
White, M. W. 7
Whiteside, J. R. 7
Winter, Karl 7
Williamson, H. M. 8
Wood, C. L. 8
Ziebach, Frank M. 7

DELEGATES OF CONVENTION OF 1885.—
Allen, Joseph 46
Alexander, Frank 45

Andrus, C. E.	45
Ashton, W. G.	46
Ayres, Frank C.	46
Baker, J. M.	45
Belton, David	46
Bennett, John E.	45
Beebe, E. P.	46
Berdahl, A. J.	46
Blair, H. H.	46
Booth, Stephen M.	45
Boyer, George	46
Britton, G. C.	46
Brookings, W. W.	46
Buechler, C.	46
Campbell, Hugh. J.	46
Churchill, J. B.	46
Cleland, John M.	45
Coffin, F. F. B.	45
Coniff, T. H.	46
Corson, Dighton	46
Craig, F. H.	46
Cranmer, S. H.	45
Crose, George C.	46
Dall, John	46
Dollard, Robert	45
Dott, Robert	46
Dow, J. T.	45
Edgerton, A. J.	45
Elfes, Thomas	45
Fellows, H. F.	45
Fisher, Frank I.	46
Fowler, J. W.	46
Frank, Alpheus E.	46
Gault, Frank, Sr.	46
Gehon, Jeremiah	46
Gifford, C. S.	46
Goddard, J. B.	46
Goddard, W. H.	46
Grant, H. J.	45
Gray, Isaac, Sr.	45
Gregory, C. M.	45
Gunderson, Albert	46
Haines, A.	46
Hanson, Joseph R.	46
Harding, William	46
Huntley, S. H.	46
Jessup, E. M.	45

Johnson, John 46
Jones, A. Sheridan 46
Kanouse, Theodore D. 46
Kellam, A. G. 45
Kendall, J. P. 46
Lansing, L. W. 45
Laybourne, George R. 45
Lichtenwallner, William A. 45
Lowe, Chas. S. 45
Lowthian, N. T. 45
Mason, J. D. 45
Maynard, G. J. 45
McCallum, J. K. P. 45
McGrath, William 46
McLeod, C. J. 45
Miller, Samuel 45
Mitchell, W. H. 46
Moody, Gideon C. 46
More, J. H. 45
Murphy, W. H. 45
Myres, C. H. 46
Neill, Henry 45
Oaks, E. T. 46
Owen, John A. 46
Parker, W. H. 46
Patten, John H. 46
Pendleton, H. F. 46
Phillips, Kirk G. 46
Potter, R. B. 46
Proudfoot, R. A. 45
Reed, C. M. 46
Ryan, Matt A. 45
Schultz, J. M. 45
Sheets, H. H. 46
Smith, H. M. 45
Snow, George W. 45
Stone, Willis C. 46
Taylor, J. W. 46
Tousley, R. C. 46
Tychsen, W. C. 46
Updyke, Stephen G. 45
Ward, James A. 45
Ward, Joseph 46
Walton, R. C. 45
Weatherwax, S. C. 45
Weeden, Leo. H. 4
Westfall, I. M. 45

  - White, Miles 45
  - Wilcox, Daniel 45
  - Williams, M. E. 45
  - Wright, George L. 46
  - Wright, Warren M. 45
- Disqualifications of Legislators 223–225
- Division of Dakota Territory 5, 63
- Dollard, Robert 57
  - Boundary, Northern 644
  - Condemnation 296
  - Eligibility of Officers 203
  - Legislative Appointment 181
  - Military Affairs 192
- Dow, J. T. 57
  - Amendments and Revision of Constitution 202
  - Amendments, suggestions concerning 187
  - Boundary, Northern 432, 541
  - Education and School Lands 596
  - Effect of Committee Report 244
  - Exemptions 560
  - List of Members, Resolution on 519
  - Prohibition 375
  - Separate Subjects 608
  - Suffrage 398, 404, 420
  - Tax Exemptions 473, 482
- Duty, Gehon and Jones 651
- Edgerton, A. J. 57
  - Amendment by Campbell 341
  - Admission 347
  - Address on Being Elected President 59
  - Chosen President 46
  - Disqualifications 223, 224
  - Elected U. S. Senator 47
  - Farewell Speech 667
  - Oath of Office 629
  - School Funds 499
  - Tax Exemptions 475
- Editorial Note 281, 552
- Election, Owen 396
- Election of Delegates 51
- Elections, Maynard 123
- Election Returns 48, 52
- Electors, Owen 652
- Elective Franchise 148
- Eligibility, Owen 276
- Eligibility to Offices 203
- Elfes, Thomas 45, 149

  - School Lands 171
- Eminent Domain 101
- Evening Sessions 249, 449
- Executive and Administrative Report 147
- Exemptions 553, 563
  - Allen 555
  - Brown 554
  - Corson 3
  - Dow 560
  - Fowler 550
  - Gehon 147, 250, 552
  - Gunderson 557
  - More 555
  - Patton 554
  - Reed 554
  - Tousley 146, 147
  - Weeden 146
  - Wright 568
- Expenses and Disbursements 100, 204, 651
- Fellows, H. F. 45, 100, 105
- Final Movement 1
- Finance 257
- Fisher, F. I. 51
  - Banks and Banking 550
  - Compensation of Public Officers 524
  - Boundary, Northern 435–436
  - Legislative Report 210
  - Printing 118
  - School Funds 516
  - School Lands 504
  - School Land Lease 507
  - Suffrage 415
- FORM OF BALLOT.—
  - Campbell 622
  - Coniff 621
  - Fowler 618
  - Huntley 623
  - Kanouse 617
  - Lowthian 623
  - McCallum 618, 622, 625
  - Proudfoot 618
  - Wright 622
- Foster, F. B. 6
- Fowler, J. W. 46
  - Banks and Banking 550–551
  - Bill of Rights 285
  - Compensation of Public Officers 525–528

Condemnation Proceedings ... 307, 336
County Officers ... 444
Exemptions ... 552
Form of Ballot ... 618
Judicial District ... 263
Legislative Report ... 185, 229
Mine Inspection ... 534
Mining and Water Rights ... 532
Prohibition ... 373
Publication of Laws ... 236
School Lands ... 502
Special Subjects ... 611
Tax Exemptions ... 475–478, 487
Two Mill Levy ... 461
Frank, A. E. ... 57
Per Diem ... 219
Preamble ... 580
Surveyor General ... 250
Funds by Mr. Campbell ... 603
Gardner, Reverened F., Prayer ... 111, 346
Gault, Frank ... 57
Suffrage ... 399
Gavel, by Kellum ... 664
Gehon, Jeremiah ... 46
Appropriation ... 174
Banking ... 550
Duty ... 657
Exemptions ... 147, 250, 554
Homesteads ... 552
Legislative Report ... 220
Military Affairs and Report ... 187, 193
Manufacturing ... 174
Publication of Laws ... 239
Prohibition ... 375
Representative Districts ... 175
School Lands ... 504
Gifford, C. S. ... 57
Gifford, O. S. ... 47
Resolution of Time Limit ... 203
Goddard, W. H. ... 57
Tax Exemptions ... 484
Goddard, J. B. ... 57
Goodner, Ivan W., Stenographer ... 94
Governor of Territory ... 6
Gray, Isaac ... 57
Gregory, Assessment of Corporation Property ... 146
Gunderson, A. ... 57

  Counties ... 124
  Exemptions ... 557
  Resolution ... 390
Gunderson, Ole ... 8
Haines, A. ... 57
  Compensation of Public Officers ... 525
  Corporation Assessment ... 544
  Impeachment and Removal From Office ... 366
  Judicial Report ... 265
  Legislative Committees Report ... 177–178, 211
  Prohibition ... 388
  Railroad Assessment ... 464
  School Funds ... 510–518
  School Lands ... 503, 598
  Seat of Supreme Court ... 256
  State Rights ... 637
  Suffrage ... 408–423
  Transcribing Clerk ... 102
Hanson, J. ... 57
  Finance ... 251
  Railroads ... 125
  Suffrage ... 123
Hare, Reverend William H. ... 200
  Resolution to Mr. Ward ... 200
Harris & Co., N. W. Letter of ... 154
Harrison, President Benjamin, Proclamation ... 48
Hines, J. B. ... 6
Holp P. E. Reverend, Prayer ... 129
Homesteads, by Gehon ... 552
House of Representatives, by Ward ... 170
Huntley ... 46
  Form of Ballot ... 623
  Military Affairs ... 191
  Prayer ... 536
  Suffrage ... 395
  Tax Exemptions ... 484
  W. C. T. U. ... 113
Huron ... 6
Huron, Temporary Capital ... 47
Idaho Territory ... 5
Impeachment ... 101
Interest ... 565
Investigation ... 125
Jamieson, Reverend A. ... 55
  Prayers ... 55, 69, 93, 153, 199, 248, 456
Jessup, E. M. ... 45
  Bill of Rights ... 282

Compensation of Public Officers 527
Condemnation Proceedings 337
County Officers 444, 448
County Seats 451
Printing 662
Publication of Laws 238
Suffrage 411, 423
Jones, S. A. 57
Duty 651
Journal 87
Judiciary 164, 200, 254, 256
JUDICIAL DISTRICTS—
Brookings 263, 267
Fowler 263
Neill 268
Owen 263, 267, 268
JUDICIAL ELECTIONS—
Brookings 270, 271
McCallum 272
Moody 270
Neill 271
Stone 271
JUDICIAL REPORT—
Lowthian 262
McCallum 262, 266
Moody 261
Neill 267
Updyke 259
JURY—
Brookings 284
Corson 284
Moody 287
Owen 286
Kanouse, T. D. 57
Elected to Congress 47
Age of Representatives 183
Clergymen 62
Committee of the Whole 176
County Seats 449
Disqualifications of Legislators 225
Form of Ballot 617
Free Passes 212
Late Arrivals in Convention 109
Legislative Committee 250
Legislative Report 206, 210
Names Not Reported 62
Prohibitoin 327, 268, 386

  - Sergeant at Arms 62
  - Separate Proposition For Vote of People 122
  - School Funds 515
  - Special Legislation 230, 312
  - Taxation 122
- Kellam, A. G. 57
  - Elected to Supreme Court 47
  - Amendment by Kanouse 206
  - Bill of Rights 286, 319
  - Banks and Banking 548
  - Disqualifications of Legislators 223, 225
  - Executive and Administrative Committee 250
  - Form of Ballot 616
  - Judiciary Committee 563
  - Legislative Report 184, 209, 223
  - Members of Congress 276
  - Military Affairs 188
  - Oath of Office 664
  - Printing 97, 538
  - Prohibition 621
  - Special Legislation 230, 312, 315
  - Suffrage 416, 427
  - Tax Exemptions 478, 491
  - Time of Committee Meeting 104
- Kent, M. B. 60
- Lansing, L. W. 57
- Laws, Operation of, by Mr. Coniff 124
- Laybourne, G. R. 57
  - County Division 449
- Legislation by Moody 236
- Legislative by Schultz 251
- LEGISLATIVE APPORTIONMENT—
  - Brookings 178
  - Campbell 179
  - Dollard 181
  - Haines 178
  - Neill 178–179
  - Ward 177
- Legislative Committee by Kanouse 250
- LEGISLATIVE REPORT—
  - Brookings 207
  - Haines 211
  - Kanouse 210–211
  - Kellam 209
  - Moody 222, 324
  - Owen 209, 211
  - Report of Committee 138

Stone ... 210
Legislative Session, Campbell and Stone ... 615
Letters of Pierce and Harris ... 154
Lichtenwallner, W. A. ... 57
  Prohibition ... 326
Limit of Speech by Allen ... 247
Limitation of Time, Gifford ... 203
Lowthian N. I. ... 57
  Form of Ballot ... 623
  Judiciary ... 261
  Military Report ... 187
  Northern Boundary ... 436
  Presents name of John Cain for Secretary ... 60
  Proposes Edgerton, A. J. for President ... 58
  Tax Judgments ... 494
Lyon, W. H., Petition of Appropriations ... 113
Maglone, E. A., Stenographer ... 94
Mason, J. D. ... 57
  Boundary, Northern ... 584–589
  Legislative Report ... 229
  Tax Exemptions ... 487
Manufacturing, by Gehon ... 174
Maynard, C. J. ... 57
  Elections ... 123
  Price of School Lands ... 203
  Session of Legislation ... 221
  Suffrage ... 394
McCallum, J. K. P. ... 57
  Bill of Rights ... 342
  Elect Secretary ... 60
  Election and Right of Suffrage ... 201
  Form of Ballot ... 618, 622, 625
  Judicial Elections ... 272
  Judicial Report ... 262, 266
  Legislative Report ... 237
  Order of Business ... 66
  Printing ... 120
  Prohibition ... 389
  Rules ... 69
  State Motto ... 572
  Suffrage ... 392, 405, 427
  Surveyor General ... 108
  Tax Exemptions ... 474, 476, 481
McLeod, C. J. ... 57
  Printing ... 662
Meeting at Home of Rev. Sheldon ... 5
Mellette, A. C., Temporary President 1883 ... 8

MEMBERS—
Additional to Committees 113
Of Legislature 213
Resolution by Dow Relating to Lists 519
Memorial, by Moody 150, 591
That Dakota be Divided 5
To President and Congress 216
Meyers, C. H. 57
Compensation of Public Officers 525
Suffrage 411
Mileage
Stone and Ward 221
Militia by Coffin 187
Dollard 192
Gehon 193
Huntley, 191
Kellam 188
Lowthian 187
Moody 193, 196
Neill 188
Taylor 114, 188
Report of Committee 126
Williams 188
Wright 191
Miller, S. 57
Committee Report 246
Condemnation Proceedings 293, 335
Legislative Report 239
Military Affairs 192
Printing 120
Printing of Journal 89
School Lands 508, 597
Suffrage 123
MINES, MINING AND WATER RIGHTS—
Booth 532
Committee Report 173
Campbell 532
Fowler 532
Moody 533
MINE INSPECTION—
Brookings 534
Corson 535
Fowler 534
MINORITY REPORT—
Elections and Right of Suffrage 201
Williams 310
Ward 243

Minority Representation Defeated 47
Moody, Gideon C. 57
    Chosen U. S. Senator 47
    Amendment by Jessup 282
    Assessment of Corporations 463
    Assessment of Railroads 466
    Bill of Rights 289, 343
    Boundary, Northern 433, 566, 570, 587
    Capital Committee 413
    Committee Report 245
    Committee Rooms 90
    Condemnation 291, 294
    County Officers 446
    Disqualifications of Legislators 224
    Employees 61
    Expenses 204, 658
    Judiciary Committee 200, 366
    Judicial Elections 270
    Judiciary Report 256, 261
    Jury 281, 287
    Legislation 236
    Legislative Report 222, 324
    Memorial 150, 591
    Military Affairs 193, 196
    Mining and Water Rights 533
    Per Diem 221, 489, 600, 620
    Poll Tax 470
    Powers of Legislation 233
    Printed Copies of Doings 202
    Printing 88, 96, 99, 106, 114, 116, 119, 661
    Procedure 251
    Prohibition 328, 376
    Rules and Order of Business 62, 64, 64, 70, 116
    Signing of Roll 66
    School Officers 513
    School Officers 454, 455
    Special Legislation 231, 316
    Suffrage 400, 409, 420, 425, 429, 430
    Supreme Court 258
    Tax Exemptions 479, 491
    Tax Judgments 494
    Committee of the Whole 186
Montana 5
More, J. H. 57
    Compensation of Officers 526, 528
    Exemptions 555
    Military Affairs 191

  - Prayer 602
  - Prohibition 369
  - Public Lands 201
  - School Land Leases 507
  - Suffrage 408
- Motto, McCallum and Stone 572, 574
- Municipal Indebtedness 157, 526
- Murphy, W. H. 58
- Nash, Newman C. 6
- Neill, Henry 57
  - Amendments by Ward 178
  - Apportionment 206
  - Banks and Banking 551
  - Boundary, Northern 432, 435, 567
  - Compensation of Public Officers 529
  - Division 432
  - Evening Sessions 249
  - Judicial Districts 268
  - Judicial Elections 271
  - Judicial Report 267
  - Judiciary Report 265
  - Legislative Apportionment 179, 180
  - Military Affairs 188, 190
  - Printing 94, 114, 605, 660
  - Prohibition 371
  - New State 146
  - Special Legislation 318
  - Suffrage 416
- Nepotism, Coffin 325
- NORTHERN BOUNDARY— 431
  - Corson 585
  - Crose 590
  - Dollard 644
  - Dow 541
  - Frank 436
  - Lowthian 436
  - Legislative Memorial 5
  - Mason 433, 584, 589
  - Moody 566, 570, 587
  - Neill 432, 567
  - Ward 569
- North Dakota 5
- Note on Quotations 305
- Note by Doane Robinson 552
- Oakes, E. I. 58
  - Legislative Power to Change Seat of Government 203
- Oath of Office, Administered to Members 58

  - Edgerton ... 629
  - Kellam ... 664
- Omnibus Bill ... 47
- Officers of Convention ... 53
- Ordway, N. G., Governor of Territory ... 6
- Owen, J. A. ... 57
  - Assessment of Corporations ... 546
  - Assessment of Railroads ... 468
  - Bill of Rights ... 250, 305
  - Compensation of Public Officers ... 528
  - Condemnation Proceedings ... 293, 303, 334
  - Division ... 180
  - Election ... 396
  - Electors ... 652
  - Eligibility ... 276
  - Judicial Districts ... 263, 267, 268
  - Juries ... 287
  - Jury Trial ... 281
  - Legislative Report ... 185, 209, 211, 220, 226
  - Order of Business ... 66
  - Passes ... 126
  - Printing ... 180
  - Prohibition ... 86, 250
  - Resolutions ... 457
  - School Funds ... 512
  - School Lands and Leases ... 502, 507
  - School Officers ... 454
  - Special Legislation ... 314
  - Suffrage ... 389, 419, 632
  - Tax Judgments ... 474
  - Tax Exemptions ... 479
- Parker, W. H., Speech ... 666
- PASSES—
  - Kanouse ... 212
  - Owen ... 126
  - Smith ... 218
  - Ward ... 138
- Patten J. H. ... 58
  - Exemptions ... 554
- Pendleton, H. T. ... 58
- PER DIEM—
  - Corson ... 218
  - Frank ... 219
  - Moody ... 221, 489, 600, 620
  - Ward ... 219
- Petition
  - Appropriations ... 113
  - Suffrage ... 250

  - W. C. T. U. 113
- Photographs of Delegates, Remarks by Tousley 152
- Pierce, Gilbert A., Letter of 154
- POLL TAX—
  - Moody 470
  - Proudfoot 470
  - Reed 469
- Potter, B. B. 57
- PRAYER—
  - Craig, Rev. Wm. 107, 385
  - Gardner, Rev. F. 111, 346
  - Holp, Rev. P. E. 129
  - Huntley Rev. 536
  - Jamieson, Rev. A. 55, 69, 93, 153, 199, 248, 456
  - More, Rev. 602
  - Updyke, Rev. S. G. 658
- PREAMBLE—
  - Ward, Rev. Joseph 301
  - Brookings 579
  - Campbell 578
  - Corson 576
  - Frank 580
  - Updyke 275
  - Williams 578, 581
- President 46, 58, 59, 60
- PRINTING—
  - Brookings 118
  - Campbell 115, 118
  - Circulated 5
  - Cranmer 118
  - Fisher 118
  - Jessup 662
  - Kellam 97, 583
  - McCallum 120
  - McLeod 662
  - Miller 120
  - Moody 202, 116, 119, 661
  - Neill 605, 660
  - Ward 118
  - Williams 118
- PROHIBITION—
  - Article on 174
  - Campbell 368, 387, 633
  - Committee on 94
  - Corson 370
  - Cranmer 175, 372
  - Dow and Gehon 375

Fowler 373
Harris 388
Kanouse 327, 368, 386
Kellam 387
Kingsbury County 87
Lichtenwallner 326
McCallum 389
Moody 328, 376
Moore 369
Owen 250
Neill 371
Provision 47
Submitted Separately 48
Wright 375

Property, (Private) Coniff 125
Proposition, Concerning Eminent Domain 109
Provision on Omnibus Bill 47
Proudfoot, R. A. ....
Form of Ballot 618
Poll Tax 470
School Lands and Leases 507
Tax Exemptions 472, 481

Public Accounts and Expenditures 172
Public Instruction 6
Public Institutions 175

PUBLICATION OF LAWS—
Coffin 240
Corson 235
Cranmer 238
Fowler 236
Stone 238
Taylor 236

RAILROADS—
Hanson 125
Ward 137

Reed, C. M. 57
Assessment of Corporations 462
Exemptions 554
Finance 201
Poll Tax 469
Revenue and Finance 275
Tax Exemptions 478
Two Mill Levy 461
Power of Governor to Veto 122

Referendum 175

REPRESENTATIVE—
Brown on Age of 184

  Kanouse on Age of 183
  Gehon Resolution 175
  Ward on Age of 183
Residence 203
REVENUE AND FINANCE—
  Campbell 435
  Reed 275
  Smith 149
Right of Admission 347
Rights of Married Women 664
Robinson, Doane, Editorial Notes 281, 552
Rules 70–77
RULES AND ORDER OF BUSINESS—
  Committee Report 110–158
Ryan, M. A. 58
  Corporations 172
  School Funds 517
  Supreme Court 148
SALARIES—
  Corson 624
  Of Delegates 53
  Limit of Pay 54
Sergeant at Arms 62
Sheldon, Reverened Stewart 5
School Districts 146
SCHOOL FUNDS—
  Britton 501
  Coffin 517
  Edgerton 499, 511, 592
  Fisher 516
  Haines 510, 518
  Kanouse 515
  Moody 513
  Owen 512
  Ryan 517
  Ward 501
  Wright 518
SCHOOL LANDS—
  Britton 504
  Brookings 502, 505, 597
  Campbell 503
  Coffin 509, 599
  Division Movement 5
  Elfes 171
  Fisher 504, 507
  Fowler 502
  Gehon 504

Haines ... 503, 598
Miller ... 508, 597
More ... 507
Owen ... 507
Proudfoot ... 507
Resolution Providing for ... 202
Ward ... 502, 507
Weatherwax ... 204
SCHOOL OFFICERS—
Brookings ... 454
Moody ... 455
Owen ... 454
Schultz ... 57
Legislation ... 251
Residence ... 203
Seal of State ... 147
Seat of Government ... 203
Secretary, Jno. Cain ... 46
Senatorial District by Wright ... 498
September 8, 1885 ... 46
Service, Public ... 149
Session ... 221
Sioux Falls ... 6, 46, 48
Smith, John B. ... 7
County Officers ... 445
Free Passes ... 218
Revenue ... 149
Tax Exemptions ... 482
Snow, George W. ... 58
South Dakota ... 47
Special Privileges Campbell ... 320
SPECIAL LEGISLATION—
Campbell ... 230, 313, 316
Kanouse ... 230, 312
Kellam ... 230, 312, 315
Moody ... 231, 316
Neill ... 318
Owen ... 314
SPEECH—
Edgerton ... 58, 667
Parker ... 666
STANDING COMMITTEES—
Appointment of ... 65
STATE OFFICERS—
Dollard, Attorney General Robert ... 47
Auditor, Alexander, Frank ... 46
Commissioner of Public Lands and Schools ... 47

- Governor, A. C. Mellette 46
- Lieutenant Governor 46
- Secretary of State 46
- Superidtendent of Public Instruction 47
- Treasurer 46

STATE OFFICERS, 1885—
- Alexander, Fran 46
- W. H. Beadle 47
- Diggs, D. W. 46
- Dollard, Robert 47
- Frank, A. E. 46
- Jones, Sheridan A. 47
- Mellette, A. C. 46
- Murphy, Hugh S. 46

STATE RIGHTS—
- Brookings 648
- Campbell 634
- Haines 637

Statute 3

Stenographers 94

Stone, W. C. 57
- Compensation of Public Officers 528
- Condemnation 294
- County Seat 451
- Judicial Elections 271
- Legislative Report 210
- Legislative Session 615
- Motto 574
- Publication of Laws 238
- Tax Exemptions 474, 485
- Traveling Expenses 221

SEPARATE SUBMISSIONS—
- Campbell 607, 612
- Corson 612
- Dow 608
- Fowler 611
- Kanouse 122
- Williams 612

SUFFRAGE—
- Britton 425
- Brookings 395, 397, 409, 425
- Campbell 422, 429
- Cranmer 426
- Dow 392, 398, 404, 420
- Fisher 415
- Gault 399
- Haines 408, 423

Huntley ... 395
Jessup ... 411, 423
Kellam ... 416, 427
McCallum ... 392, 405, 427
Maynard ... 394
Moody ... 400, 409, 420, 425, 429, 430
More ... 408
Myers ... 411
Neill ... 416
Owen ... 399, 419, 632
Petition of M. M. Bones ... 250
Petition of Ward ... 249
Resolution of Hanson ... 123
Resolution of Miller ... 123

SUPREME COURT—
Haines ... 257
Moody ... 258
Ryan ... 148

Surveyor General ... 250

TAXATION—
Kanouse ... 122
Tousley ... 147

Tax Exemptions ...
Beebe ... 472
Brookings ... 473, 483
Coffin ... 490
Corson ... 472
Dow ... 473, 482
Edgerton ... 475
Fowler ... 475, 478, 487
Goddard ... 484
Huntley ... 482
Kellam ... 478, 491
Mason ... 487
McCallum ... 474, 476, 481
Moody ... 479, 491
Owen ... 476
Proudfoot ... 472, 481
Reed ... 478
Smith ... 482
Stone ... 474, 485
Ward ... 475
Wright ... 474

TAX JUDGMENTS—
Britton ... 495
Campbell ... 495
Lowthian ... 494

  - Moody, 494
- Taylor, J. W., 7
  - Bill of Rights, 284
  - Legislative Report, 235
  - Military Affairs, 114, 188
  - Printing, 89, 94, 95, 98
  - Committee of the Whole, 176
  - Publication of Laws, 237
- Teller, J. H., Secretary, 58
- Thanksgiving Day, 5
- Tousley, 58
  - Appropriation, 147
  - Appointments, 251
  - Clerk of Counties, 146
  - Exemptions, 147
  - Laws Imposing Taxes, 147
  - Photo of Delegates, 152
  - Printing, 97
  - School Districts, 146
  - Suffrage, 148
- TRIAL—
  - Brookings, 283
  - Moody, 281
  - Owen, 281
- Tripp, Bartlett, 8
- Two Mill Levy, 459–461
  - Brookings, 459
  - Fowler, 461
  - Reed, 461
- Tyschen, W. C., 57
- Updyke, S. G., 45
  - Judicial Report, 259
  - Preamble, 275
  - Prayer, 658
- Veto, 1 2
- Ward, Joseph, Dr., 5, 6, 58
  - Age of Representatives, 183
  - Arrangement and Phraseology, 659
  - Bill of Rights, 343
  - Compensation of Clerks, 619
  - Compensation of Public Officers, 524, 527
  - Committee Report, 245
  - Invitation of Hare, 200
  - Northern Boundary, 569
  - Prayer, 301
  - School Funds, 501
  - School Lands and Leases, 502, 507

  - Suffrage 249
  - Tax Exemptions 475
- Ward, J. A. 57
  - Condemnation 299
  - Legislative Report 365
  - Mileage 221
  - Minority Report 243, 310
  - Per Diem 219
  - Printing 118
  - Passes 138
  - Representatives, House of 170
  - Railroads 137
  - Standing Committees 100
- Walton R. C. 58
  - Investigation of Public Officers 125
  - Military Committee 195
- Washburne, Mrs. J. H., Stenographer 94
- W. C. T. U. 113
- Weatherwax, S. C. 57
  - School Lands 204
- Weeden Leo. H. 46
  - Exemptions 140
  - Legal Rate of Interest 565
- Westfall, I. M. 58
- Whitefield, Wilmot 6
- Williams, M. E. 57
  - Militia 188
  - Minority Report 310
  - Preamble 578, 581
  - Printing 118
  - Separate Submissions 612
- Winsor, Curtis 8
- Wright, W. M. 57
  - Military Affairs 191
  - School Funds 518
- Wright, George L. 58
  - Exemptions 554, 561
  - Form of Ballot 622
  - Senatorial Districts 498
  - Tax Exemptions 474
- Wyoming 5